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FINAL REPORT

OF THE

VIRGINIA COMMISSIONERS

ON THE

MARYLAND AND VIRGINIA BOUNDARY

TO THE

GOVERNOR OF VIRGINIA.

RICHMOND:
R. F. WALKER, SUPT. PUBLIC PRINTING.
1874.

Virginiana

268578

UNIVERSITY OF VIRGINIA

COMMONWEALTH OF VIRGINIA,
EXECUTIVE OFFICE, January 26th, 1874.

To the Senate and House of Delegates:

I have the honor to transmit herewith the able and exhaustive final report of the commissioners on behalf of this state, upon the boundaries between Maryland and Virginia, together with the accompanying papers, and to commend to your careful consideration the important interests to which they refer.

JAMES L. KEMPER.

REPORT.

RICHMOND, VA., JANUARY 15th, 1874.

The undersigned, commissioners on the part of Virginia, submit their final report upon the boundaries between the states of Maryland and Virginia. They now condense the propositions which they have maintained, referring to their "statement." heretofore made for the authorities, and proofs and arguments which support them, set forth the tenders of compromise which they have made, and the disagreement with the commissioners on the part of Maryland, which has resulted from their acceptance of no compromise, and their extreme claim of limits, which could not be acceded to by commissioners on the part of Virginia.

PROPOSITION I.

By the charter of James I. dated April 10th, 1606, all the territory claimed by Great Britain in North America, then called Virginia, lying between 34° and 45° N. L., was granted to two companies, the London and Plymouth companies. The former was authorized to plant a colony between 34° and 41° N. L.; and the latter was authorized to plant one between 38° and 45° N. L.; *but the last planted should not be within one hundred miles of the other first established.* The London company made its first settlement the 13th day of May, A. D. 1607; and, before the Plymouth company made any settlement or planted a colony, the second charter was granted in May, 1609. This last charter granted to the London company two hundred miles north and two hundred miles south, from Point or Cape comfort, and from the Atlantic ocean east to the Pacific ocean west. This belt of territory was from ocean to ocean in length, and 400 miles wide, from 34° to 40° N. latitude. Thus, under the first grant, the territories of the two companies over-lapped each other from 38° to 41° N. L.;

three degrees, and a space between their plantations was left unsettled, except by the Indians. And this state of the grants left an opening for the grant afterwards to Lord Baltimore, who could not, being a Catholic, take the oath of supremacy and allegiance in the colony of the London company, afterwards specially called Virginia. And the two parallels of N. latitude, 38° and 40°, being thus cardinal lines between the London and Plymouth companies, this formed the reason why this comparatively vacant territory, as far north as 40° N. L., and as far south as Watkins point, under the parallel of 38° N. L. was chosen for the limits of the grant to Lord Baltimore. The bend of the Potomac river, being a little south of the parallel of 40° N. L., was made a natural boundary on the western shore of the Chesapeake bay, and Watkins point, under 38° N. L., was made the southern boundary of Maryland on the eastern shore of that bay.

There was a third charter granted to the London company, the only part of which material to the question of boundary is that which prohibited Papists from settling in the limits of the colony of Virginia, which prohibition was enforced by a series of colonial statutes.

II.

The charters of the London company were cancelled by a judgment of the Court of King's Bench, pronounced in a case of quo warranto depending in that court at its Trinity term, in the year 1624. That judgment affected the rights of the *company* only, but *not* the rights of the *colony*. The same powers of government which the charters had vested in the company, *were revested in the Crown;* and the same title to the land within its chartered limits, which the charters had vested in the company, was revested in the Crown. At this juncture of the time, 1624, when the charters of the company were revoked, James I. died; and he was succeeded by Charles I., who was at heart a Papist, and the particular friend of Lord George Baltimore. The latter, dissatisfied with his colony at New Foundland, petitioned the king for a grant in Virginia. In 1629, he visited Jamestown, in person. The oaths of supremacy and allegiance were tendered to him, he delined to take them, and he was thus driven to take a grant of territory *lying in the unsettled portions of the country common to Virginia and New England, north of* 38° *N. L., and between that par-*

allel and 40° *N. L.* This history is important because it shows *the reason why the grant to him was located so as to be not north of* 40° *and not south of* 38° *N. L.*

III.

George, Lord Baltimore, petitioned for his patent in 1629, but before it was completed he died, and in 163⅜, the first grant of Maryland was made by Charles I. to Cecilus Calvert, Baron of Baltimore, in Ireland, &c.

The undersigned have sought from every source in their reach, the best copies of the Charters in Latin, and the best translation thereof, and now present all of it which relates to boundary, to wit: (the Latin and English alternating.)

"Totam illam partem peninsulæ
All that part of the peninsula
"Live chersonese, jacentis in partibus
or chersonese, lying in the parts
"Americæ, inter oceanum ex oriente et
of America, between the ocean on the east and
"Sinum de Chesapeake ab occidente,
the bay of Chesapeake on the west,
"A residus ejusdem per rectum lineam,
divided from the residue thereof by a right line,
"a promontoris live capite terra, vocato
drawn from the promontory or head-land, called
"Watkins' point, juxta vinum pradictum,
Watkins point, situate adjoining the said bay,
"prope fluvium de Wighco, situats ab occidente,
near the river of Wighco, from the West,
"usque ad magnum oceanum in plaga orientali,
as far as the main ocean on the Eastern shore,
"ductam divisam, et inter metam illam,
and between that bound on the south,
"a meridie usque ad partem illam œtuarii,
unto that part of the estuary of Delaware
"de Delaware ab aquilone quæ
on the north, which lies under the

"subjacet quadragesimo gradui latitudinis
fortieth degree of north latitude from
"Septentrionalis ab æquinoctiali, ubi
the equinoctial, where New England is
"terminatur Nova Anglia; totum que
terminated; and all that tract of land
"illius terræ tractum infra metas subscriptas,
within the bounds underwritten, to wit:
"videlicet, transeundo a dicto æstuario
Passing from the said estuary, called Delaware
"vocato Delaware recta linea, per gradum
bay, in a right line, along the degree aforesaid,
"prædictum usque ad verum meridianum
unto the true meridian of the first fountain
"primi fontis fluminis de Pottowmack,
of the river Potomac, thence turning
"diende vergendo versus meridiem ad
towards the south to the further bank of
"ulteriorem dicti fluminis ripam, et eam
said river, and following the same on that
"sequendo eam qua plaga occidentalis ad meridion-
side where the western shore looks
"alem spectat, usque ad locum
towards the southern "(shore)" unto a
"quendam appellatum Cinquack, prope
certain place called Cinquack, situate
"ejusdem fluminis ostrum situatum
near the mouth of the same river,
"ubi in præfatum sinum de Chesapeake
where it disembogues into the aforesaid bay
"evolitur; ac inde per lineam brevissimam
of Chesapeake; and thence by the shortest line
"usque ad prædictum promontorium live
to the aforesaid promontory or place
"locum vocatum Watkins' point; ita quod
called Watkins' point; so that the whole
"totus terræ tractus per lineam prædictam
tract of land divided by the line aforesaid,
"inter magnum oceanum et Watkins' point,
between the main ocean and Watkins' point,

"divisus usque ad promontorium vocatum
unto the promontory called Cape
"Capè Charles, et singula sua appendentia,
Charles, and all and singular their appurtenances,
" nobis hæredibus et successionbus nostris
may remain excepted forever to us,
"intægre remaneant excepta imperpetuùm
our heirs and successors."

This original charter, when closely scanned, must be held as never having granted to Lord Baltimore the bed or isles, or south or right bank of the river Potomac.

The *initial* point of boundary between the two colonies, was *Watkins' point*, on the Eastern shore of the Chesapeake bay.

That two such colonies should have had no beginning and no terminating point for boundaries, is not more absurd than the pretension now set up by the commissioners on the part of Maryland, that the point of beginning and of terminating the lines between the two colonies *was never ascertained.* As will be shown hereafter, the point was identified and acknowledged by agreement of the two colonies, and the very *angle* of it fixed, whence to run the line on the Eastern shore, and the line was run and marked in 1668, *from* that angle of *Watkins' point, over the Pocomoke river, (two natural marks,) by a right line to* Swanseagut creek, (another natural mark,) on the sea side of the Peninsula, and thence continued a right line to the main ocean.

No other line but that on the Eastern shore was run by the commissioners who acted in 1668. The line was run between Maryland and Pennsylvania afterwards. William Penn deprived Lord Baltimore of some 16 miles of territory in width, south of 40° N. L., leaving the western boundary of Maryland with Virginia, to be settled. And that western boundary of Maryland with Virginia, is referred to now to aid in deciding the question: *on which bank of the Potomac did the line between Maryland and Virginia begin and run on the Western shore of the Chesapeake bay?* This question can be determined only by comparing the original charter with a diagram of the river Potomac.

Michler states in his report upon the meridian of the first fountain of the Potomac, that after beginning at the first fountain of the Potomac and running *north some two miles and a half, he came to the river Potomac, there running a N. west course.*

This at once shows that this river starts north of east from its fountain and turns N. west to cross the meridian of its fountain, and thence turns south of west again to get its general course, first east, then N. east to Hancock; thence S. east to its mouth; and the map shows that the north headland at its mouth. *Point Lookout is a peninsula with its eastern shore on the Chesapeake bay, and its western shore* on the river; that Point Lookout lies N. west from Smith's point, the south headland at the mouth of the river Potomac; that Cinquack was located at or near Smith's point, and that the *western shore of the Potomac,* at Point Lookout, *is the only place where the shore of the Potomac looks towards a place then called Cinquack.* With this held in the mind, we can rationally comprehend the dispute and its exact points of difference.

1st. Maryland claims that by the charter of Lord Baltimore, the standpoint of the grantor was on the 40th parallel of N. L. That is granted.

2nd. She next claims that the line turning south "to the *further bank* of said river," *necessarily ran to the south or right bank of the Potomac.* Virginia, on her part, claims that this could not be so from the course of the river, for by the survey of Michler, the left or *north* bank was the "*further* bank of the river," *at the point where it was cut by the meridian of the first fountain thereof, traced from the parallel of* 40° *N. L.*

3rd. Maryland to this replies that whatever be the map of the river at its source, the *line was to be run to a place called Cinquack,* and the river *was not to be crossed by it, but the line was to continue on the same bank of its beginning to that place;* and that place was at or near the mouth of the Great Wicomico, near the mouth of the Potomac; or, by an old map now in possession of the historical society of Maryland, was located at or near Smith's point. To this Virginia replies, that the charter *does not* require *that the line,* on whichever bank of the river it was to run, should run *to Cinquack;* but that it required that the line should "follow the same (further bank of the river on which it was to begin)." On "that side where the western shore *looks towards the southern shore unto a certain place called Cinquack,* situate *near the mouth of the same* (Potomac) *river, near where it disembogues into the aforesaid bay* (Chesapeake)." This called for a line *to a place on the northern or left* bank of the river which *looked* (*specktat*) towards Cinquack on the south, not to *Cinquack* but to a place where the western shore looked to "the southern shore

unto Cinquack." *And "Point Lookout" is the place and only place answering this description of the grant.* And the Cinquack located by Smith's map could *not be the Cinquack meant because it is not at or near the mouth of the Potomac where that river disembogues into the Chesapeake bay.* Smith's point is more likely meant as the part of the territory called Cinquack, the *dominion* of a chief whose *wigwam* only was located by Smith where the Big Wicomico disembogues into the bay, ten miles, at least, south of the Potomac river.

Thus, it is contended, that by the original charter to Lord Baltimore, he was granted only *to the north* bank of the Potomac river. But Virginia founds her claim upon much higher grounds than that of critical construction of the first charter to Lord Baltimore.

IV.

Whatever were the boundaries originally fixed by the grant to Lord Baltimore, the grant itself was immediately contested by the colony of Virginia, and its legality was never decided by the courts to whom the question was referred, to this day. But it was revoked by the revolution in Great Britain of 1649. On the 12th of March, 1651, a convention was entered into between the commissioners of the Parliament of England, and the governor, council and Burgesses of Virginia, which surrendered the colony to the commonwealth, and annihilated the royal government and prerogative in Virginia. By the articles "*at the surrender of the countree,*" it was solemnly agreed and concluded.

4th. That Virginia shall have and "enjoy the anchient bounds and lymitts granted by the charters of the former kings, and that we shall seek a new charter from the parliament to that purpose against any that have intrencht upon the rights thereof."

Thus, the royal grant to Lord Baltimore was annulled by "convention and treaty," made by the sovereignty of Great Britain, then governing in fact and of right; and by the same highest authority, the "*ancient bounds and limits granted* by the *charters of the former kings" were restored to Virginia.* This was by treaty made by and with a sovereignty defacto et dejure.

V.

But the limits and bounds of Virginia were not only restored by the commonwealth of England, but all of her territory lying between Potomac and Rappahannock rivers, called the Northern Neck, including the river Potomac and all its isles, was regranted to her by Charles II, then at St. Germains, through a grant to Henry, Lord Germains, Earl of St. Albans, and Ralph, Lord Hopton, first in 1651, and afterwards recited and confirmed, by a grant dated 8th May, 1667, as shown by the "Public Record Office of England, Chancery Patent Roll 21, Charles II." These patents embraced all the territory bounded by and within the head of the rivers of "Tappahannock, alias Rappahannock, and Quinough or Pattowmack rivers, the courses of the said rivers, as they are commonly known, &c., *together with the rivers themselves,* and *all the islands within the banks of said rivers, and all the woods,* &c., &c., with sundry provisions.

That this grant was not to infringe or make void or prejudice any contracts or grants, &c., theretofore made by the governor or governors and council *of Virginia, &c.*, made before the 29th day of Sept'r, in the 13th year of the reign of Charles II. And these grants were prohibited from acting or intermeddling in the military affairs, or forces, in the territory, or with the government or command of any castles or forts thereof, *without the order, authority and command of the governor and council of Virginia* for the time being, *but the same shall remain, continue and be in the governor and council of Virginia;* and that the governor and council and assembly of Virginia, for the time being, shall have full power and authority to lay any tax and impositions in and upon the said territories hereby granted.

Thus granting, with the reservations named, the full *proprietary rights to the individual proprietors or grantors*, and to the *governor, council and assembly of the colony of Virginia, full military and civil power of government over the Northern Neck and river Potomac.* And on the petition of Francis Morryson and others, agents for the governor, council and Burgesses, "*of the country of Virginia, and territory of Accomac,*" and on the report of the king's council, at Whitehall, confirmed by the king, present in council, on the 19th November, A. D. 1675, the governor, council and commonalty of Virginia were authorized *to purchase the lands contained in the grant to the Earl of*

St. Albans. And thus the colony of Virginia *became seized of the entire territory of the Northern Neck, and of the entire river Potomac and its waters and isles in the whole course thereof, independent of the charter to Lord Baltimore.*

VI.

Carefully examined, the river Potomac named in the grant to Lord Baltimore, was the *Quinough;* and the river of that name never embraced the north and south branches of the Potomac, as it is now known. Those branches were respectively called by distinct names from the Quinough; the north branch was called the Cohongaroota, and the south branch was the Wapopocomo, and the Quinough extended only to the falls of what is now known as the Potomac. But the boundary mark was fixed by Lord Fairfax, at the first fountain of the north branch or Cohongaroota, as found by Michler, and the stone there now is the recognized point of beginning on the Potomac river.

VII.

Lord Baltimore was restored to his proprietary right in Maryland by Charles II, subject to the grant made to Lord Hopton. The latter grant was never disturbed or questioned by Lord Baltimore, by any proceedings before the courts of law or at the Court of St. James. He yielded the whole Northern Neck to Lord Fairfax, and how and when and by what authority or act did he ever regain the Potomac river? Both alike, the land and river, were granted, and the two were alike retained within the jurisdiction of Virginia.

VIII.

But there was a controversy about the boundary between the two colonies on the Eastern Shore, the history of which is remarkably well preserved, which threatened a civil war about the territory bordering on the Manokin and Big Annamessex rivers, and the Nanticoke sound, and the bay into which the Wicomico river, on the Eastern

Shore, empties. This caused the "Grand Assembly, held at James City, Sept'r 10th, 1663, the 15th year of Charles II, to pass act 2nd, an act concerning the bounds of this colony on the Eastern Shore."

It commanded all his majesty's inhabitants of the Eastern Shore of Virginia, from Watkins' point southward, to render obedience to his majesty's government of Virginia, and make payment of his majesty's rents and all publick dues to his majesty's colony of Virginia. It truly claimed Watkins' point to be the Lord Baltimore's southernmost bounds on the Eastern Shore; declared that "five able selected surveyors and two Burgesses" had made due examination thereof, and the grand assembly had concluded "the same place of Watkins' point to be the north side of Wicocommico river on the Eastern Shore, and near unto and on the southside of the straight limbo, opposite to Patuxent river." And Edmund Scarborough, John Catlett and Richard Lawrence, or any two of them, whereof the surveyor-general (Edmund Scarborough) was to be one, to give notice at Manoakin, or any other convenient place, and give a meeting to the Lord Baltimore's lieutenants or deputies, &c., &c., and to report to his majesty's governor and council of Virginia. Edmund Scarborough made his report in 1663, that he had taken "fourty horse for pomp of safety" with him, and took formal possession of the country as far north as Manoakin.

This brought him into collision with the authorities of Maryland, and caused the Governor of Maryland to invoke the co-operation of the Governor of Virginia; and the result was, that the two colonies, respectively, appointed commissioners, one each, to adjust and settle the whole controversy in respect to boundary on the Eastern shore, and in respect to any conflict of land titles growing out of disputed limits of the two colonies.

Philip Calvert, the nephew of Lord Baltimore, and the Chancellor of Maryland, was appointed on the part of Maryland, and Edmund Scarborough, Surveyor General of Virginia, was appointed on the part of Virginia. Their acts were to be final, and they were instructed "*to meet upon the place called Watkins' point*, and thence to run a *divisional line to the ocean, sea, &c.*" This instruction they obeyed, and on the 25th day of June, 1668, they made the report of their agreement, under their hands and seals.

This history and their report is found fully preserved in the archives of Maryland, in Council Books, from 1656 to 1658, and from 1669

to 1673, now in the keeping of the Historical Society of Maryland, Baltimore; and their report is as follows:

"Articles of agreement between Philip Calvert, Esq., Chancellor of Maryland, deputed by the governor of said province to treat and *conclude* upon the bounds of the said province, and Col. Edmond Scarborough, His Majesty's Surveyor-general of Virginia, authorized and commanded to lay out the bounds of Virginia:

I.—Imprimis. It is agreed that all persons who have surveyed or patented and seated land on the seaboard side, in the right of Virginia, and now fallen within the divisional line, shall enjoy their said lands, they taking a patent from the lord proprietary of Maryland, and within seven years entering rights in the said province, and paying the half fees to the surveyor-general, and full fees to the secretary and chancellor.

II.—Item. All such as have already patented any lands in right of Virginia, in any other place within the line aforesaid, which is not also patented in Maryland, shall have the privilege in the foregoing articles, upon such terms as in the said article is expressed.

III.—Item. All such who have patented and seated lands in right of Virginia, which do fall within the line aforesaid, and are patented likewise in Maryland, but not seated in the same right, shall enjoy the same, unless it can be proved they have seated said lands in defiance and despite of the said government, after warning given, provided they take patents, enter rights, and pay fees, as in the first articles is agreed.

IV.—Item. If any land shall chance to be patented, only in right of Virginia, for which there is also a patent in Maryland, the patent in Maryland shall carry the land. In witness whereof, the said Philip Calvert and Edmond Scarborough, have hereunto set their

(Signed,)

PHILIP CALVERT,
EDMOND SCARBOROUGH."

And in the same record, dated the same day, is found the following:

"Whereas his royal majestie's commission to the surveyor-general of Virginia, commands, setting out the bounds of Virginia with reference to his majestie's hon'ble governor and council of Virginia, from time to time, to give advice and order for directing the said surveyor-general to do his duty appertaining to his office. In order thereunto his majesty's hon'ble governor and council have, by letter, moved the hon'ble, the Lord Baltimore's lieut.-gen'l of Maryland, to appoint some fitting person to meet upon the place called Watkins' point, with the surveyor-general of Virginia, and thence to run the divisional line to the ocean sea, &c.

"The Hon'ble Philip Calvert, Esq., chancellor of Maryland, being fully empowered by the hon'ble lieut.-general of Maryland, and Edmund Scarborough, his majesty's surveyor-general of Virginia, after a full and perfect view taken of the point of land made by the north side of Pocomoke bay and the southside of Annamessex bay, have and do conclude the same to be Watkins' point, from which said point, so called, we have run an east line agreeable with the extremest part of the westernmost angle of said Watkins' point over Pocomoke river to the land near Robert Holston's, and there have marked certain trees, which are so continued by an east line running over Swanseagut creek into the marsh of the sea-side, with apparent marks and boundaries, which, by our mutual agreement, according to the qualifications aforesaid, are to be named as the bounds of Virginia and Maryland, on the Eastern Shore of Chesapeake bay.

"In confirmation of which concurrence, we have set our hands and seals this 25th day of June, 1668.

"(Signed,)

"PHILIP CALVERT. [Seal.]
"EDMUND SCARBOROUGH. [Seal.]"

This settlement and adjustment was final and complete in itself.

It was so not only in itself by its power and appointment, but, as will be hereafter shown, it was confirmed, approved, adopted and adhered to by Lord Baltimore; it was mapped in 1695, as the true line actually run, as shown by a map in the historical society of Maryland, in Baltimore; it was confirmed, recognized and adopted by Maryland in laying off the county limits of Worcester county, Maryland, in the year 1742; has been the only line on the Eastern Shore ever since 1668;

and is recognized by the historians of Maryland, especially by Kilty and McMahon and Bozman, as the settled line on the Eastern Shore between the two states. It is a settlement of the line, on the Eastern Shore only, and refers only to that line, except in two particulars, to-wit: *it fixes the initial point for the whole line to begin at, and fixes the point for the whole line to terminate at;* the "*extremest part of the westernmost angle of Watkins' point.*"

And that angle, then determined, *is still the westernmost angle of Watkins' point, and Watkins' point is still defined, as it was then;* and whatever is uncertain now as to any part of the line then run, can easily be made certain by the parts which are now certain, for the line was "*a right line,*" *by the charter, or an east line, by the agreement,* and more than sixteen miles of it are still marked. It varies from an east line from its beginning by 5° 15′ only, and that is accounted for by the variation of the compass then, which is not enough to disturb a long established and adopted boundary; and conformity to the *charter* is the essence of the act of the commissioners, which cannot be affected by so slight a variation from their real agreement. There is nothing else in fact or form which impairs, in the least, this adjustment, and it stands confirmed for the period of over two centuries. The north headland of Little Annamessex, on Janes' island, is still the westernmost angle of Watkins' point, notwithstanding all the washings of the coast, is midway between the southern shore of Big Annamessex, and the northern shore of Pocomoke sound, on the east coast of Tangier sound; all the marks, numbering over two hundred, still remaining, point to it in the same line; it was easily found and run to by De La Camp, in his survey, and can be identified at all times, with mathematical or topographical certainty.

IX.

The king was informed of the settlement of the initial point, and of the line on the Eastern Shore, and ordered Lord Baltimore, by his letter to him of 19th August, 1682, to proceed to ascertain the boundaries of Maryland and Pennsylvania, "*by an admeasurement of the two degrees north from Watkins' point, the express south bounds in your patent, and already settled by commissioners between Virginia and Maryland.*" This was again repeated in the letter, and the computation was directed "of sixty English miles to a degree."

Lord Baltimore, thus instructed by the king, has left two memoirs of his conferences with Wm. Penn. The first was held the 13th Dec'r, 1682. He acknowledges Watkins' point to be his southern boundary on the Eastern Shore. He urged, in fact, and so says, that he could not assent to the proposition of Penn, to begin from a point for his southern boundary south of Watkins' point, *because his southern boundary on the Eastern Shore was already settled by commissioners*, and the first person of six, who certified his statement of the conference with Penn, was Philip Calvert, his commissioner, who settled the very part of Watkins' point as the initial point of his boundary. In fact, he records himself as admitting: "*My southern bounds being Watkins' point, was so determined by commissioners from his majesty and others from my father.*" He fully claimed, as well as admitted, that the line from Watkins' point was fixed, and that he was bound by it.

Another conference was held between him and Penn at New Castle, Delaware, Tuesday, the 29th day of May, 1683. He still more urgently insisted that his southern bounds had been fixed by *measurement*, and asked why his northern bounds could *not be measured too.*

X.

On the opinion of Lord Chf. J. Holt, and for reasons assigned by George Tuby, att'y-gen'l, Maryland was seized by the king, and a gov'r therefor was commissioned March 12th, 1691. Lord Baltimore was deposed from that date to the period of 1715, when he was restored to his lord lieutenancy by George I. Thus, from 1633 to 1715, for a period of 82 years, his title to Maryland was never quiet. And the question arises, to what was he restored in 1715? Delaware, part of Pennsylvania, and the grant to Lord Hopton were all dismembered from his limits. And he accepted a restoration of his lord lieutenancy, subject to these dismemberments, the last as well as the other two.

XI.

The colony of Maryland, as a colony, also confirmed the line run by Calvert and Scarborough. "Maryland Council Proceedings, Liber H. H., folio 268," show that in 1666 the county of Summerset was

laid off on the Eastern Shore. Its limits then described by a line on the south drawn from Watkins' point, being the north point of that bay, into which the river Wighco (meaning the Pocomoke) empties to the ocean on the east, &c. This, in effect, was a line from what is called now Cedar Straits to the ocean on the east. But this was laid off in the year 1666, *two years before the line run by the commissioners, Calvert and Scarborough, between the two colonies in* ———. The colonial line, of course, changed the exparte county line bordering on Virginia. This is proved by Maryland herself. In 1742 her county of Worcester was, by her, carved and laid off out of the limits of the elder county of Summerset; and Worcester county was laid off exactly on the Calvert and Scarborough line east of the Pocomoke river. This county was laid off *after* the *year* 1668, and, of course, observed the colonial line then run by the commissioners, Calvert and Scarborough. And this accounts for the preservation of marks east of Pocomoke river, whilst they are obliterated west of that river.

This fully confirms the state line. And this record of the boundary of counties, is confirmed by the records of the county of Summerset, describing a highway and a hundred in 166 6-7.

XII.

This is confirmed, too, by patents recognizing the *divisional line* between the two colonies. Patents can be shown for every foot of land on the Eastern Shore, granted by Virginia, from Watts' island to near Nanticoke sound, on the bay, and to Swanseagut on the sea-side north, especially embracing the southern end of Smith's island, whereon Maryland granted the north side and Virginia the southside of the same tract of 2,000 acres called Pittscraft.

And patents were taken from Virginia especially by such citizens of Maryland as Daniel of St. Thomas Jenifer, and Daniel Jenifer and Ann Toft, his wife and others on the Eastern Shore. These patents date from long before 1668 down to the year 1841, the last being to one of the present commissioners of Maryland. Deeds also confirm these positions on the Eastern Shore; and Ferries confirm the claims of Virginia to the Potomac, besides various separate and concurrent statutes of the two colonies and states touching the regulations of lights and buoys, &c.

XIII.

The boundary between Maryland and Virginia was fixed by Great Britain to be on the north bank of the Potomac by the treaty of Paris, between Great Britian and France, on the 10th February, A. D. 1763.

XIV.

But whatever the boundaries of Virginia were before the revolution of 1776, they were then and afterwards fixed by her state constitution of that date; by her cession of her N. west territory to the U. States, inducing Maryland to join the confederation of states, on the condition of recognizing her boundaries, as then claimed by her. She then claimed the Potomac river, and the boundary laid off on the Eastern Shore; and Maryland accepted her part of the cession made by Virginia. This estops her claim of any other boundaries, well or ill founded *now*.

XV.

Maryland, by her authorities of the county of Summerset, recognized the limits of Virginia, as claimed by her in 1776, as late as the 16th June, 1835. The court of Summerset county, Md., then appointed commissioners "to lay off so much of Smith's island as lies within the body of Summerset county aforesaid, into a separate and additional election district, before the 1st April, 1835. The commission was dated April 8th, 1835, and their report was made and confirmed June 16th, 1835. Their report shows that they started at Drum point, on the east side of the island, ran westwardly to the bay to Sassafras hammock lying on the bay shore; thence by and with the bay shore to Kidge's straits; thence by and with the sound to Drum point." This line runs nearly through the great thoroughfare of Smith's island, and conforms nearly exactly with a right line from Point Lookout to the headland of L. Annamessex, fixed as the initial point on Watkins' point, as established in 1668, and verified by De

La Camp in 1858. And now the commissioners of Maryland claim the whole of Smith's island, well knowing that if any part of Smith's island be admitted to have been in Virginia, the line running either from Point Lookout or Smith's point could never terminate at Cedar straits as the initial of Watkins' point.

XVI.

The circuit court of the 8th judicial circuit of Maryland, held the 3rd day of October, 1854, in effect, decided that the territory in Tangier sound now claimed by the commissioners of Maryland, and far north of Cedar straits, was not within the limits of the state of Maryland. This was tried in two actions—one criminal, and the other civil—the one arraigning John Tyler, a citizen of Va., and seizing the schooner Fashion, as forfeiture, for violating the laws of Maryland, to prevent the catching of oysters; and the other a suit vs. John Cullen, a J. P. of Md., by said Tyler, for the arrest and the seizure. Tyler was found dredging at Filliby's rock, north of the great rock in Tangier sound, far north of Cedar straits and of the south end of Smith's island. He was acquitted on the trial of the prosecution, and in the civil action recovered $1,000 damages against Cullen, in the circuit court of Summerset, Md. The Hon. I. D. Jones, one of the present com'rs of Md., defended Cullen, and Mr. Crisfield, after whom the town of Crisfield, on Little Annamessex, and the Crisfield R. R. there are called, was the attorney for Tyler; and these two gentlemen, thus informed of the true line of the two states, at that locality, were two of the chief founders of the Crisfield R. road, the wharf of which, at Crisfield, just touches the Calvert and Scarborough line.

This is referred to, to note the remarkable fact that if the location of the terminus of this R. road, *exactly on the Calvert and Scarborough line,* as ascertained and run by De La Camp, was *an accident, it was one against the recurrence of which any insurance co. will insure at the least appreciable per cent.* In other words, Maryland, her county authorities, her courts, her commissioners, her own records and archives and her leading and best informed citizens, now and formerly of the Eastern Shore, identify and recognize the true boundary on the Eastern Shore between her limits and those of Virginia.

In a word, Virginia is entitled to the river Potomac and its isles to its left bank, by the original grant to Lord Baltimore, by treaty with

the commonwealth of England, by the grant to Lord Hopton, by eviction of Lord Baltimore in the time of Wm. and Mary, by his restricted restoration of grant in 1715, by the treaty of Paris in 1763, and by the cession of her N. western territory by Virginia in 1787; and she is entitled to the line established by the commissioners, Calvert and Scarborough, in 1668 on the E. Shore.

These propositions were fully sustained by the most ample and sufficient records, histories, depositions and reports, all exhibited in a statement made by com'rs on the part of Virginia to those on the part of Maryland; and they made their statement on the part of Maryland; both of which have heretofore been communicated to the executive and gen'l assembly of Va. and been printed. Having maturely considered both statements and the evidences of titles adduced, the undersigned were constrained to conclude: *that the jurisdiction of Virginia embraces the Potomac river; that the true boundary on the western shore of the Chesapeake bay between Maryland and Virginia is the north or left bank of the river Potomac; that the boundary across the Chesapeake bay, is a right line from Point Lookout, the north headland of the river Potomac, to "the extremest part of the westernmost angle of Watkins' point," which is on Janes island and is the northern headland of Little Annamessex river on the Eastern Shore; and thence by a right line over Pocomoke river and over Swanseagut creek to the Atlantic ocean, as agreed upon and fixed by the sealed agreement of Philip Calvert, com'r, on the part of Md., and by Edmund Scarborough, com'r, on the part of Virginia, the 25th day of June, A. D.* 1668.

But, in consideration of the relations of amity always existing between the states of Maryland and Virginia in all their past history, and to prevent discord for the future between them and their citizens in respect to riparian rights and the fisheries in the waters embraced in the issues of boundary, the effort was made to adopt such compromises as seemed reasonable and just.

At the joint meeting in Baltimore, held in October, 1872, after much conference and discussion, and after the statements on both parts were heard and considered, the commissioners on the part of Maryland proposed that the line of boundary between the two states should begin *at low water mark*, on the divisional line between the two states of West Virginia and Virginia, on the southwest shore of the Potomac river, and thence follow the *said shore at low water*

mark to all wharves and other improvements now or hereafter extended by authority of Va. from the Virginia shore, into said river beyond low water mark; and following said river around said wharves, &c., to low water mark on the southwestern side, down to the easternmost angle of Smith's point, at the mouth of said river; thence by a right line to the centre of Cedar straits on Tangier sound, near the southern end of Watkins' point, and thence by a right line in a southeasterly direction to the channel of Pocomoke bay or river nearest to Cedar straits; and thence up, by and with the channel of said bay and river to a point therein opposite to the place on the east shore of said Pocomoke river, ascertained by Mr. De la Camp, in 1857, as the beginning on said shore of the divisional line run and marked by Calvert and Scarborough in 1668; and thence by and with said divisional line as surveyed and laid down on the map made by said De la Camp for the joint commissioners of Maryland and Virginia in 1858, to the Atlantic ocean.

The right of fishing and taking oysters in Pocomoke bay and river to be common to the citizens of both states, subject to concurrent regulations by the two states.

This proposition was respectfully declined by the commissioners of Virginia, and they in turn proposed:

That the northern boundary line of Virginia shall henceforth be fixed and established at low water mark on the left or northern shore of the Potomac river, for the whole extent of that shore coterminous between Maryland and Virginia, to the extreme end of Point Lookout, where it disembogues into the Chesapeake bay; thence by a right line to the extremest part of the westernmost angle of Watkins' point, it being the northern headland of Little Annamessex river; and thence by and with the line run by Philip Calvert and Edmund Scarborough in the year 1668, over the Pocomoke river and Swanseagut creek, to the shore of the Atlantic ocean, on Assateague island.

The commissioners of Maryland respectfully declined this proposition, and proposed, by way of compromise, their second proposition:

To begin at the point as described in their first offer of compromise, and to run, as therein described, to Smith's point; and thence by a line, across Smith's island, to the place on Jane's island bar

where the light-house stands; thence by a right line to the centre of Cedar straits; thence to the channel of Pocomoke bay; and thence up, by and with said channel, said bay and river, and by and with the Scarborough and Calvert line, to the ocean, as described in their first offer of compromise.

This proposition was declined by the commissioners of Virginia, and they then offered their second compromise:

To establish the part of the Calvert & Scarborough line now marked between the right bank of the Pocomoke river and the ocean; and from the terminus of said line on the right bank of the Pocomoke river, to follow said river thence down the same to the eastern headland of East creek on said river; thence by a right line, to the middle of the channel of Cedar straits, and through said straits, northwestwardly, to a point due south from the western headland of said straits; thence to low-water mark of the shore of said headland; thence north to low-water mark on the shore of the north headland of Little Annamessex river; thence to the point where the 38th degree of N. latitude cuts across the Tangier sound and Smith's island, at or near Barnes' point thereon; thence along the shores of the north end of Smith's island at low-water mark, on Kedge's straits, until it reaches the shore of that island on the Chesapeake bay; thence following that shore at low-water mark, until it reaches the said parallel of 38° N. L., at or near the great thoroughfare of Smith's island; thence to run on said parallel to the point where the said parallel is cut by a meridianal line drawn through the extreme southern angle of Point Lookout, at the mouth of the Potomac river; and thence up that river, on the main channel thereof, to the point in that river at or opposite to where the divisional line between Va. and W. Va. touches said river Potomac.

This proposition was respectfully declined by the commissioners of Maryland, and then the commissioners of Virginia offered their third proposition of compromise:

That the line between Md. and Va. shall run by and with the main channel of the Potomac river until it descends to the point where the meridianal line drawn through the extreme southeastern angle of Point Lookout cuts the parallel of the 38th degree of N. L.; thence in a right line to the westernmost angle of Watkins' point, it being

the northern headland of the mouth of Little Annamessex river; thence by a right line to the southwestern angle of the land and marsh at Cedar straits, north of these straits; thence to the main channel of these straits, north of the most northern of the Fox islands; thence due east to the channel of the Pocomoke sound or river; thence up the main channel of said sound and river to the place where the Calvert and Scarborough line was run "over" that river in the year 1668; and thence by the marks and monuments on that line, to the shore of the Atlantic ocean on the Assateague island.

The commissioners on the part of Maryland respectfully declined this proposition, and then offered the following compromise:

To begin at the point on the Potomac river and run down the same to Smith's point, as described in their first offer of compromise; thence by a right line to the centre of the great thoroughfare of Smith's island, called Mister's thoroughfare; thence by and with the middle of said thoroughfare to the mouth thereof at Tangier sound, at a place called Big island; thence by a right line through the centre of Cedar straits, to the channel of the Pocomoke sound or bay; and thence up, by and with the channel of said sound and Pocomoke river, to the point opposite to the Calvert-Scarborough line, as described in their first offer; and thence by and with the Calvert-Scarborough line to the Atlantic ocean.

They announced that this was their last offer of compromise, and, if accepted, it must be with the understanding that all existing titles, rights, and liens upon the land south of that thoroughfare, granted by Lord Baltimore, shall continue in force and be held valid in law as if granted by Virginia, &c.

This proposition was respectfully declined by the commissioners of Va., and they announced that they had no other proposition of compromise to submit on their part.

The com'rs thereupon adjourned, to meet at Richmond, Va., on Thursday, the 7th of November, 1872. Failing to meet, owing to unforseen and unavoidable causes, according to this appointment, and other causes intervening to postpone their assembling, the commissioners of the two states held their last joint meeting in November last, at Baltimore, commencing on the 18th of that

month. After considering various maps, papers, patents, deeds, and especially a map preserved by the historical society of Maryland, said to be dated in the year 1695, which shows that *the Scarborough and Calvert line was run and marked,* though it don't lay the line down accurately in any particular corresponding with the com'rs' report in 1668, and especially also a paper signed "*James Boyle,*" in relation to the western boundary of Maryland; and after three days of conference, the commissions on the part of Virginia offered as a compromise the following proposition in substance:

To divide by the channel of Potomac, on the western shore. The com'rs on the part of Maryland stated that they preferred to leave the boundary on the Potomac as it was left by the constitution of Virginia in 1776, and by the compact of the two states in 1785; and they proposed to consider the adjustment of the boundary from Smith's point, across the Chesapeake bay and the Eastern Shore to the ocean. The com'rs of Virginia thereupon called for any proposition of compromise of the line over the Chesapeake bay and across the Eastern Shore which the com'rs of Maryland had to submit.

And the com'rs of Maryland proposed:

"The boundary from Smith's point to be a right line across the Chesapeake bay, to the centre of Cedar straits upon the Tangier sound, near the southern end of Watkins' point; thence by a right line in a southeasterly direction to the channel of Pocomoke bay or river nearest to Cedar straits; thence up, by and with the channel of Pocomoke bay and river, to a point therein opposite to the place on the east shore of said river ascertained by Mr. De la Camp in 1857, to be the beginning, on said shore, of the divisional line said to have been run and marked by Calvert and Scarborough in 1668; and thence by and with said divisional line, as surveyed and laid down on the map made by said De la Camp for the joint commission of Virginia and Maryland in 1858, to the Atlantic ocean. The right of fishing and taking oysters in Pocomoke sound or bay and river, and in Tangier sound from the southern end of Watt's island and Tangier islands to the north end of Deal's island, and west to the Chesapeake bay, to be common to the citizens of both states, subject to concurrent regulations by the two states."

This proposition was respectfully declined by the com'rs of Virginia, and the commissioners on the part of Maryland announced that they had no other proposition of compromise to offer. The commissioners on the part of Virginia then offered the following:

To commence at the point in the mouth of Potomac river where the meridian of Point Lookout cuts the 38th parallel of N. L., and thence to run a right line to the low water mark of the north headland of Little Annamessex river; thence a right line to low water mark at the end of Watkins' point at Cedar straits; thence to the channel of said straits; thence a right line to the mouth of East creek at the head of Pocomoke sound; and thence on and by the right bank of Pocomoke river to the point where the line run by Philip Calvert, on the part of Maryland, and Edmund Scarborough, on the part of Virginia, in the year 1668, crosses said river Pocomoke; and thence by said Calvert and Scarborough line to the ocean.

This proposition was declined by the com'rs of Maryland; and those on the part of Virginia offered the following:

To commence as by the last proposition, and to run on the 38th parallel of N. L. until said parallel reaches low water mark on the eastern coast of Smith's island; thence to run a right line to the former location of a light boat as described in the maps reported by Michler and De la Camp, in the years 1857-8-9, near the north headland of Little Annamessex river on Janes island; and thence a right line to the channel of Cedar straits; and thence a right line to the head of Pocomoke sound and up the Pocomoke river to the Scarborough and Calvert line; and thence across the same by the Scarborough and Calvert line of 1668, to the ocean.

This proposition was respectfully declined by the com'rs of Maryland, and the commissioners of Virginia announced that they had no other proposition of compromise to submit. And with these proceedings the joint commission concluded its labors, which were conducted throughout with the utmost fairness, with the most faithful regard to duty and their very important trust, and with the kindest feelings of personal respect.

No one can regret this disagreement more than the undersigned. After patient research, study and labor for three years to ascertain the truth of history, to find the original muniments of title; and to vouch the proof and test the evidence of boundary, and to construct the fair arguments and conclusions upon the issues in controversy, and after proposing every form of compromise which seemed reasonable and liberal as well as just, they cannot but profoundly regret that their labors have been in vain; but, at the same time, must add that, in their humble opinions, the state of Virginia *must continue to claim more than the com'rs of Maryland consented to yield.* The territory and eminent domain in dispute involves a very large amount in value—no less than *all the water power, all the isles, all the alluvium, and all the raparian rights and rights of jurisdiction of the river Potomac* bounding *the two states on the western shore of the Chesapeake bay;* and *forty square miles of territory between Little Annamessex river and the head of Pocomoke sound and on Smith's island, and one hundred and fifty square miles of waters in the Chesapeake bay and in Tangier and Pocomoke sounds, embracing the main seed-beds of oysters in the waters of the Chesapeake bay and on the Eastern Shore.*

The water-power on both banks of the Potomac at the falls above Georgetown and Washington city, and the alluvium between Georgetown and the Long Bridge, in front of the public grounds of the government, and the fisheries and lands on the isles of the Potomac, and the territory and the oyster beds on the Eastern Shore, cannot be of less value than twenty millions of dollars. Virginia has about 1700 square miles, and Maryland only about 700 square miles in the Chesapeake, and yet, if Maryland acquires the seed-beds of Tangier and Pocomoke sounds, her lesser domain will be as valuable as the greater owned by Virginia.

Whenever the lines are established they should be fixed by monuments the most permanent. The undersigned are informed that the marks of trees and posts east of the Pocomoke river, on the Eastern Shore, already begin to be obliterated; that some of them are in heavy forests where wood-cutters are at work and where large fires are frequent. This ought to be attended to at once.

Another fact needs immediate attention: The terminus of boundary on the shore of Assateague island is now uncertain because it has been obliterated by the winds and blowing sounds of the beach, and common humanity requires that there should be no uncertainty as to

which wreck-masters—those of Virginia or of Maryland—shall take charge of shipwrecks on that part of the coast. In a word the subject is of the utmost concern in point of magnitude and in all of its details.

Having fully performed their duties, and developed the data for investigation and the issues to be determined, they submit to the executive and general assembly to decide what other and further steps shall be taken to maintain and establish the rights of this commonwealth to her true bounds and limits.

They have omitted to notice in this report what is called the Compact between the two states in the year 1785, because it was a joint act which did not pretend even to fix boundaries; because it expressly assumed certain boundaries to be in dispute and unsettled; because it was but a temporary expedient to regulate commerce and navigation between the two states, and because, in that respect, if not in all respects, it has been superseded by the adoption of the constitution of the United States.

Respectfully,

HENRY A. WISE,
D. C. DEJARNETTE,
WM. WATTS.

To His Excellency JAMES L. KEMPER,
Governor of Virginia.

MEMORANDA

OF A

JOURNAL OF THE VIRGINIA COMMISSIONERS

IN THE

MATTER OF BOUNDARY

BETWEEN

MARYLAND AND VIRGINIA.

CORRESPONDENCE.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE SECRETARY OF THE COMMONWEALTH,
Richmond, December 1st, 1870.

HON. HENRY A. WISE,
Richmond, Va.:

DEAR SIR:

In communicating to you the enclosed letter of appointment, I am directed by his excellency, the governor, to apprise you that the gentlemen associated with you are Hon. D. C. DeJarnett, of Caroline, and Col. William Watts, of Roanoke, and to suggest that you invite them to meet you at some early day for a conference, and with a view of opening correspondence with the Maryland commissioners and appointing a time for beginning the work assigned you.

The governor also directs me to say that in conformity with the joint resolution of the legislature, he has made application to the superintendent of the United States coast survey for the assignment of a corps of surveyors, to aid you in the ascertainment and location of the line, and for the loan of any maps, charts, &c., that may be of use to you, and that he will acquaint you with the response of that officer.

I have the honor to be,
With great respect,
Y'r ob. s'v't,

JAMES McDONALD.

Note.—The contents of this were communicated to Mr. Dejarnett and Col. Watts, by a letter addressed to each of them, naming Richmond, and the 8th inst. as the day of meeting.

H. A. WISE.

Decem. 3d, 1870.

COMMISSION.

The Commonwealth of Virginia,

To all to whom these Presents shall Come—Greeting:

Know ye, That our governor, in pursuance of authority vested in the executive by law, hath constituted and appointed Hon. Henry A. Wise, one of the commissioners to ascertain and locate the true boundary line between the states of Virginia and Maryland, in accordance with the provisions of a joint resolution of the legislature of Virginia, approved June 27, 1870.

In testimony whereof, these our letters are sealed with the less. seal of the commonwealth and made patent.

Witness—Gilbert C. Walker, Esquire, our said governor, at
[SEAL.] Richmond, this 30th day of November, in the year 1870, and in the 95th year of the Commonwealth.

G. C. WALKER.

By the governor:

JAMES MCDONALD,

Secretary of the Commonwealth.

WASHINGTON, *December 6th*, 1870.

Hon. G. C. WALKER,
Governor of Virginia:

SIR:

I have the honor to acknowledge the receipt of your letter of 28th ulto., informing me that you had been instructed by the general assembly of the state of Virginia, to apply to the superintendent of the coast survey "for the assignment of a competent corps of surveyors to the duty of ascertaining and locating the true boundary lines between the state of Virginia and the state of Maryland, North Carolina and Tennessee," and requesting "to be informed as early as convenient, whether under the laws and instructions controlling the U. S. coast survey, such an assignment of a corps of competent surveyors as referred to, can be made for this duty, and if so upon what terms and conditions; and at what time they can meet the joint commissioners of the states of Virginia and Maryland, and proceed with the work."

The request made in your letter, was duly referred to the hon. secretary of the treasury, with the recommendation that the superintendent of the coast survey be authorized to act in compliance therewith, and the necessary authority will be given so soon as a similar application shall be made by the governor of Maryland, or by the joint commission in its official capacity, as is usual in such cases.

The conditions upon which the assignment referred to can be made, are that the expenses of the corps, with the exception of the salaries of the assistants or surveyors, who may be detailed for the duty, be paid jointly by the two states.

These expenses will comprise the usual allowances, traveling expenses, and the cost of outfit and pay and subsistence of employees for such surveys and field operations as may be necessary for ascertaining and locating the true boundary lines. The instruments will be supplied by the coast survey.

I have the honor to be,
Very respectfully,
Your ob't servant,

RICH'D D. CUTTS,
Assist. U. S. C. Sr., for the Superintendent.

COMMONWEALTH OF VIRGINIA,
EXECUTIVE CHAMBER, *Richmond, December 8th*, 1870.

His Excellency ODEN G. BOWIE,
Governor of Maryland, Annapolis:

SIR: I have the honor to inform you that in compliance with the joint resolution adopted by the general assembly of Virginia, approved June 27th, 1870 (a copy of which has been sent you), I have appointed and commissioned Messrs. Henry A. Wise, D. C. DeJarnett and Wm. Watts, commissioners on the part of Virginia, to meet the commissioners of Maryland, and with a competent corps of surveyors to be assigned to this duty by the proper officer of the United States government, to ascertain and locate the true boundary line between the two states.

I have also made formal application to the superintendent of the United States coast survey for the assignment of a competent corps of surveyors to this duty, as contemplated by our legislative resolution, and have received a favorable reply thereto. I enclose herewith a copy of this reply. The hon. sec'y of the treasury directs that the necessary authority for the assignment asked for "be given so soon as a similar application shall be made by the governor of Maryland, or by the joint commission in its official capacity," and I would respectfully suggest that the application be made by the joint commission as soon as organized.

As soon as the Virginia commissioners above named, shall have been apprised of the readiness of the Maryland commissioners, they will at once proceed lo agree upon a time and place of meeting, and organize the joint commission and to perform the duties assigned them.

Renewing my assurances of my high appreciation of the honorable and conciliatory course pursued by you in our late oyster difficulties, and the high estimation in which you are held by the people of Virginia, as well as myself,

I am very respectfully, your Excellency's obedient servant,

G. C. WALKER.

Endorsement on foregoing letter.

EXECUTIVE CHAMBER, *Richmond, Dec.* 12, 1870.

Respectfully forwarded to Gen'l H. A. Wise, for the information of the within named Virginia commissioners.

By order of Gov. Walker.

W. D. COLEMAN, *Executive clerk.*

RICHMOND, VIRGINIA,
December 16*th*, 1870.

To His Excellency ODEN G. BOWIE,
Governor of Maryland:

SIR:

His Excellency Gov. Walker, of Virginia, informs me that you are already apprised by him, that Messrs. Wm. Watts, D. C. DeJarnett and myself have been appointed commissioners on the part of Virginia, to meet the commissioners on the part of Maryland, to ascertain and locate the true boundary line between the two states.

We are not informed whether the commissioners of Maryland have been appointed, or if so, what their names and residence are; and we desire to be informed of their wishes and convenience as to the time and place of meeting for a conference.

My co-commissioners desire me to ascertain who are the commissioners of Maryland, and their address, in order that I may correspond with them. The three commissioners of Virginia will confer with each other here at Richmond, on Wednesday next, the 21st instant. You will oblige me by giving me the desired information by that time.

With highest considerations and respect,

HENRY A. WISE.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Annapolis, December 20th, 1870.

Hon. Henry A. Wise:

MY DEAR GOVERNOR:

The commissioners appointed by the state of Maryland are the Hon. Isaac D. Jones, Att'y-Gen'l, Baltimore; L. L. Waters, Esq., Princess Ann, Md., and William Aydelotte, Newtown, Worcester county, Md.

I will notify them of your desired interview, and a letter from you to Att'y-Gen'l Jones, Baltimore, will probably facilitate the meeting.

Heartily desiring a prompt and permanent settlement of these boundary troubles,

I am very truly and respectfully,
Your ob't s'v't,

ODEN G. BOWIE.

NEWTOWN, MD.,
Decem. 22, 1870.

HON. HENRY A. WISE,
Richmond, Va.:

DEAR SIR:

I received yesterday a letter from Gov. Bowie, informing me he had written to Gov. Walker and yourself saying the commissioners on the part of Maryland were ready to confer with those on the part of Virginia, relative to defining the line between the two states.

While I do not think we should enter upon our field duties, during the rigors of winter, the exigencies of the case seem to require some early action on the part of the two commissions; and I respectfully suggest a meeting at some central place—say Baltimore city—at as early a day as may suit yourself and colleagues for organization and free exchange of views, and probably entering upon the historical part of our labors, preparatory to our field duties in early spring.

Would the second Tuesday in January, and the office of the att'y-gen'l of Maryland, in Baltimore, suit? or is there a more convenient and suitable place, and a more opportune time? I will be pleased to hear from you, and will endeavor to make it suit us, to meet you at such time and place as may meet your approbation, but desire time to confer with my colleagues upon the subject after hearing from you.

I am, dear sir,
With profound respect,
Truly and obediently y'rs,

WM. J. AYDELOTTE.

RICHMOND, VA.,
Decem. 26th, 1870.

To Wm. J. Aydelotte, Esq.:

My Dear Sir:

I was about commencing a letter to the gentlemen commissioners of Maryland, when I received yours of the 22d instant this morning.

I fully concur with you that we should not enter upon any field duties until after the rigors of winter and high winds of spring have ceased. I would say, not until the last of April or first of May, but that is my individual opinion only. I agree with you also that we should have a central conference somewhere for the organization of the joint commission, and to ascertain and discuss any difference as to boundary before we move upon the survey.

A successful conference may relieve us from any field work whatever. I pray that may be the result. But as yet, I am not authorized to agree upon any time or place of meeting.

The Virginia commissioners have not yet had a full meeting, Col. Watts, of Roanoke co., being absent. I have met Mr. DeJarnett two or three times, and he proposes Washington city as the most central place. I have suggested Annapolis as the place most convenient to examine the archives of Maryland. The time, I am sure, cannot be as soon as the second Tuesday in January.

First. For the reason that the legislature of Virginia has not made an appropriation, and will not probably before the middle of January; and

Secondly. The former reports upon the boundary of the two states have been so mutilated during the fall of Richmond, they must be supplied; how, is not determined.

It is my purpose to proceed as promptly as we can, and it will be my care and choice to confer with the commissioners of Maryland, as well as with my own colleagues, as to the mutual convenience of all, As soon as I can obtain the views of Messrs. Watts and DeJarnett, I will address you again.

A deliberate preparation, in my opinion, will hasten our work, and tend to make it successful, or to make up the best excuse for a failure, if fail we must. The study of the muniments of titles of both states

is a large one, and the time of winter will not be lost if devoted to that alone. I therefore suggest that we postpone a conference until such time as each commission shall notify the other of readiness to confer.

Please communicate these views to your colleagues, as I will to mine and let me hear from you again.

Most respectfully and
Truly yours,

HENRY A. WISE.

Endorsements on the foregoing letter.

Same day—

Notified Messrs. Watts and DeJarnett of Mr. Aydelotte's letter, saying I was not authorized to fix time or place, and that we will probably be compelled to ask for a later day.

I informed Mr. DeJarnett that I would write to Col. Watts, and enquire when he can meet us here, and wrote to Col. Watts to that effect.

HENRY A. WISE.

Second endorsement.

Decem. 27th, 1870.

Wrote to G. W. Gillett, clerk of Accomack, for Scarborough's report, and other records.

OAKLAND, *Decem. 28th*, 1870.

DEAR SIR:

I have just received yours of 26th. I heard nothing of the meeting you refer to on Wednesday, the 21st, or I would certainly have been present, though I had given you *plenary* authority to act for me in arranging the time for the first meeting of the boundary commission, as I thought when I met you in Richmond a short time since.

It is very inconvenient for me to leave home during the Christmas holydays, my presence being necessary, not to *take Christmas* myself, but to keep order on my place, and arrange my labor for another year. Unless detained by some accident, I will be in Richmond on Tuesday evening, the 2d January. If I am unexpectedly detained, I hope yourself and Mr. DeJarnett will arrange the time for the first meeting, to suit yourselves. My only objection to the time suggested by Mr. Aydelotte is, that I am a director in the Atlantic, Mississippi and Ohio railroad company, and there is to be a meeting of some importance of the board of directors in Lynchburg, on the second Wednesday. The succeeding Friday would suit me very well, and I have no choice as to place. I could reach Washington, Baltimore, or I presume Annapolis, Thursday night.

Has it occurred to you that there may he a hitch in our proceedings from the fact that the joint resolution of our general assembly only authorized the appointment of *two* commissioners, whereas Governor Walker has appointed *three*. See his message, pages 16 and 17. I do not know that any mischief can result from it, but it occurred to me that we had better consider the matter before proceeding any further.

Very respectfully and
Truly yours,

WM. WATTS.

Gov. H. A. Wise, Richmond, Va.

Note to the foregoing letter by H. A. Wise.

By note of December 30th replied, explaining my understanding of the appointment for the Wednesday week after parting from Col. Watts. I informed him that I did not see necessity of meeting again for a month or more for reasons:

First. Three commissioners have to be appointed.

Second. Appropriation has to be made.

Third. No survey can be made until after March.

Fourth. Time required to prepare and agree ourselves, and time to confer and discuss with Maryland commissioners; propose, therefore, last of February or 1st March, for our meeting. March for conference with Maryland commissioners, and April for survey.

Fifth. Messenger probably will have to be sent to London if legislature approve.

H. A. WISE.

SPRING GROVE, CAROLINE, VA.,
December 29th, 1870.

DEAR SIR:

Yours of 26th inst. is to hand. Should Col. Watts come to Richmond, as you suggest, I do not see that we could accomplish more than you have done, which is in exact harmony with our understanding at our last meeting.

We regarded as indispensable to a clear vindication of Virginia's right to her claim, a copy of the official record, of our colonial history from the colonial office of England.

Should we meet I could suggest nothing better than your reply to Mr. Aydelotte's letter. A meeting of the commissioners to consider Mr. Aydelotte's letter, could alone result in adopting your answer.

If, in your opinion, Col. Watts's presence and my own could aid in obtaining prompt action from our legislature in regard to the mission to England, I will come immediately and add my efforts to yours in securing that on which the success of our mission depends.

Approving all you have done, and with sentiments of high regard and esteem,

I am sir, yours,
Most respectfully,

D. C. DEJARNETT.

To Gov. H. A. Wise.

Note by H. A. Wise.

Answered Jan'y 2d, 1871, informing him of my letter to Governor Walker, of December 31st, 1870, and saying he had better come to aid in getting through the appropriation.

H. A. WISE.

RICHMOND, VA.,
December 31*st*, 1870.

To His Excellency GILBERT C. WALKER,
Governor of Virginia:

SIR:

The commissioners on the part of Virginia, to ascertain and locate the true boundary line between the states of Virginia and Maryland, have entered partially on their duties. One of them has been engaged in assiduously examining Hening's Statutes at Large for all the known published papers relating to the subject; and another has been engaged in looking up the reports and vouchers of the late joint commissions, which failed to agree upon a line. At the very outset, it is found that one of the reports of A. J. McDonald, Esq., is missing, and the vouchers or authenticated copies referred to in his other report have been so mutilated and destroyed, that what is left of them is useless to support the just claims of Virginia to her true line of the Potomac on the western shore, and of Watkins' point, at 38°, on the eastern shore.

Of these manuscripts, copied from various offices in London, there were nine volumes, embracing *forty-six* copies of maps, and other indispensable vouchers and evidences of Virginia's title. *Six* out of the nine volumes have been taken away; and the *three* only remaining volumes—the second, sixth and seventh—have been so mutilated by cutting out their leaves, that they are now wholly deficient in the very materials which they were meant to supply.

This indescribable offence against the state—this extraordinary attempt to commit the larceny of a line of latitude—this mutilation of historical materials—this destruction of muniments of chartered rights and of boundary monuments—this felony upon the folios of state archives—is obviously not the work of the vandalism of war; but it shows that it was done with the *felonious intent* of some *interested party*, who knew the meaning and effect of the memorials specially destroyed, and their application to the question of interest which suggested the motive for their destruction. This motive is too apparent for the act to be mistaken, and it is so effectual to prevent or obstruct a correct investigation of the boundary on the Eastern Shore, involving not only the oyster fisheries of the Tangier sound,

but the terminus of the railroad at Crisfield, that the present commissioners, who have examined the records, concur in the conviction that these missing papers must be recopied in England and be restored, before it will be safe to meet the Maryland commissioners, or to try the title of boundary.

I am, therefore, authorized to ask of your excellency the recommendation to the general assembly to pass an act making a sufficient appropriation for obtaining a renewal of these destroyed copies, in such mode as you may deem most expedient. They are invaluable, not only for present use, either to prevail with the joint commission of boundary, or to prepare for a trial before the judicial tribunals, but for the state's history in all time. Whilst they are being obtained, say in two months, every preparation of documents in our possession may be made, and the rigors of winter and the high winds of March will have ceased, before a survey is commenced. The survey of the widest part of the Chesapeake bay, and of the bays and islands on the sea-shore, must not only enter upon "field," but upon "flood," and cannot be done in cold and windy weather with any accuracy.

The commissioners also ask for the legislative sanction of three, instead of two commissioners, and for an appropriation of some advance to them of compensation, and for the pay of a clerk to their board.

I am, for myself and the commissioners,

Your Excellency's obedient servant,

HENRY A. WISE.

OAKLAND, *Feb'ry 2d*, 1871.

DEAR SIR:

I have just received yours of yesterday's date. I have been confined to my house and yard for the last two (or ten) days by indisposition, and cannot venture to Richmond earlier than some day next week. I will telegraph you as to the day I will be in Richmond, so that you may inform Mr. DeJarnett.

I have seen nothing of the passage of the bill you refer to, except through the lower house. The newspapers are almost worthless in so far as they pretend to report the proceedings of the general assembly.

Very respectfully and
Truly yours, &c.,

WM. WATTS.

Gov. H. A. Wise, Richmond, Va.

LEXINGTON, VA., *Feb'ry 20th*, 1871.

D'R SIR:

I received your letter of the 16th inst., this morning.

I recommended the report of Col. McDonald should be "kept secret;" as I did not wish the other party to be in possession of the information Col. McDonald had collected. Having examined it carefully, in connection with the Col., I was greatly impressed with its value and importance, and considered it would settle the question. Hence my recommendation, in which he concurred.

My impression now is (my recollection is not distinct) that, at his suggestion, the report and accompanying papers, were deposited in the office of the secretary of state. Col. Munford can perhaps furnish some information in regard to it.

Truly, yours,

JOHN LETCHER.

Hon. H. A. Wise, Richmond, Va.

Memorandum by Gen'l H. A. Wise.

March 1st, 1871.

Wrote to Col. Watts to come on, also to Angus McDonald to get what he could from his brother. Received letter from G. W. Munford, which I have handed to Mr. DeJarnett to obtain certain orders.

OAKLAND, *March* 3, 1871.

DEAR SIR:

Yours of 1st March is just received. I left Richmond under the full belief that it was settled that Mr. DeJarnett should proceed at once to England and obtain all the documentary evidence which he could find relating to the boundary between Virginia, Maryland and North Carolina.

He had shown me a note from yourself to him approving this course, and while I did not in any direct words also approve it, I made no objection, and considered the matter settled.

Previous to seeing Mr. DeJarnett and conversing with him, and looking over some of the papers which his industry had collected, I had, in private conversation with some gentlemen, expressed the opinion that such a mission was unnecessary, as it would, I thought, avail us nothing. About this my opinion has been somewhat modified, partly in deference to the better judgment of yourself and Mr. DeJarnett, and partly for other reasons. While I still do not see how we are to get rid of the Scarborough Survey or Commission, and of the Compact of 1785, recognizing Smith's point, yet, to meet the Maryland commissioners' views, would be simply to surrender the contest.

We have *nothing* upon which to base even a jury argument, and I consider it our duty to fortify ourselves with all the evidence we can procure, let the result be what it may.

That the Maryland commissioners will not yield Smith's point, I suppose is certain, no matter what testimony we may procure, and I am afraid it is almost equally certain that the courts will not help us. We are bound by compacts, and even if those compacts are founded on fraud, we have slept too long upon our rights. But in this I may be mistaken, and, at any rate, no reliable judgment can be formed until we see the testimony.

The fact that the McDonald papers have been stolen and mutilated shows that somebody interested against us regarded them as important, and we ought to have them again if possible before we attempt to do anything else.

I therefore give my full and explicit concurrence in Mr. DeJarnett's mission, and think that the sooner he starts the better. We ought to be in the field by May.

This is, I suppose, all that is necessary from myself.

I cannot well leave home at this time, my son being quite sick, but if my presence in Richmond is *needed* or necessary, telegraph me at Big Lick.

Very respectfully and
Truly yours, &c.,

WM. WATTS.

Gov. H. A. Wise, Richmond, Va.

I hope Mr. DeJarnett will not forget the North Carolina boundary. My impression is we have been cheated there, and I should like to see their charters.

Gen'l McDonald made a mistake in bringing home only *translated* copies of the Maryland charter. We ought to have the original Latin as well as the translation. Such Latin as it is, I have no doubt can be better and more accurately translated in England than in this country, but the Maryland commissioners may make a point upon our procuring merely a translation, and so with North Carolina.

If Mr. DeJarnett could find Col. McDonald's son who accompanied his father to England, and take him along as secretary, he could possibly aid him very materially in his investigations. I merely throw this out as a suggestion.

WM. WATTS.

BERRYVILLE, *March 3d*, 1871.

Gen'l H. A. Wise:

MY DEAR GEN'L:

Yours received yesterday. I will write to-day to William. He resides in Louisville, Ky.; and ask him to communicate to you whatever he may possess which can forward your purpose. It is possible that these copies of which you speak may be in Lexington with my mother. If they are, allow me to suggest, that the best mode of finding out what is there, would be to communicate with some gentleman of your acquaintance, a resident, and get him to confer with my mother, and he might be of service to her in making the necessary search. I would refer you to my brother Marshall, who is an assistant professor at the Institute, but I think it doubtful whether he can spare the time from his duties, which press heavily upon him. I can assure you, however, of his disposition to serve you. William can probably tell you where these copies are to be found.

Yours truly,

A. W. McDONALD.

NEWTOWN, MD., *March 6th*, 1871.

Hon. H. A. Wise:

MY DEAR SIR:

In your esteemed favor of 26th December last, you expressed views relative to the preliminary duties of the joint commission on the boundary line question of our states, that met the approbation of the Maryland commissioners. But you remarked they were your individual views, and that you would confer with your colleages, and write me again. Since which I have not had the honor of hearing from you.

The Maryland commissioners have not as yet held a formal meeting, Mr. Jones being much engaged in our supreme courts. We will be happy to meet you and your colleagues, at Annapolis or Baltimore, any time of which you may give us timely notice.

I have seen in the public print an indication of a commissioner being sent by the governor of Virginia to England in order to replace lost or demolished records. If such a course is adopted by your authorities, of course much time will be spent, but our commission will cheerfully await the result, as our only aim is a speedy, equitable and final settlement of the vexed question.

May I hear from you, at length, at your earliest convenience,

I am, dear sir,

With profound respect,

Obediently yours,

WM. J. AYDELOTTE.

RICHMOND, VA., *March 8th*, 1871.

To W. J. Aydelotte:

MY DEAR SIR:

Yours of 6th inst. was received by me this evening, and I take pleasure in replying to its kind intimations by saying, that to-day is the first moment when I could further communicate with you satisfactorily.

My colleagues have just concurred in the necessity of sending to England to repair damage done to the archives of Virginia, by the mutilation of her records relating to the boundary of the two states.

Our messenger will start very soon, and will require some two months for his work.

I hope (that) not more than that time will be consumed, and that by the first or middle of May, we will be able to meet your commissioners at Baltimore or Annapolis, and confer as to our action in the field. I do fondly hope for a speedy, equitable and final settlement of the boundary. The legal and historical work, to prepare for an intelligent conference of the joint commission is great.

I think no time will be lost in that preparation which will teach us to agree or disagree very promptly. My desire is to make our work decisive and conclusive, and I am happy to recognize a kind disposition on your part.

Very truly and
Respectfully yours,

HENRY A. WISE.

LOUISVILLE, *March 7th*, 1871.

Gen'l H. A. Wise:

My Dear General:

I received to-day a letter from my brother, enclosing one from you to him in regard to the boundary question. You ask if my father did not have copies made of the papers he brought from England, and bearing upon this subject. He intended to do so, but never did as far as I know. It is quite probable that he kept a copy of the report made to the legislature in the winter of 1861. But I have never been able to find it, or anything else relating to the boundary question since the war.

His papers were scattered and most of them lost, by being carried about from one place to another during the war. There may, perhaps, be something upon the subject, in the possession of my mother who lives in Lexington, Virginia, but I think there is nothing. My father carried with him in a wagon from Lexington his most valuable papers. At his capture by the Yankees these were destroyed.

All I can do, then, is to give some hints about the points taken in my father's last report to the legislature (June, 1862):

First. The chief one was, that the charter (in Latin), as found, I think Maryland Statutes at Large, under which she claims her present boundary, differs from the original charter granted to Baltimore, and differs, too, just where the line of division between the (two) states is described.

My father had the original charter, translated by one of the best scholars in London, and also his opinion, given as to the difference made by the change as appears from the present copy in possession of Maryland; and the conclusion was, that there had been foul play, and that Virginia had been thereby robbed of her rights.

Second. The maps of Smith and other cotemporary geographers, show that the king, in granting the charter, had not the slightest knowledge of the real course of the Potomac, and from his probable idea of it, then, the conclusion followed that he never intended to give the Potomac to Baltimore.

Third. That Maryland's prescriptive right to the Potomac, arising from the fact that patents for the lands of the islands of the same

were first obtained from Maryland, is explained by the fact that Lord Culpeper was, during the period of the first settlement of the Potomac, contending with the state or colony of Virginia as to the right to grant patents for land in the Northern Neck; hence arose conflicts and confusion; and hence first settlers preferred to take out patents for lands in Maryland, where land tenures were more determined.

There is no doubt but that Cumberland and the Maryland coalfield were *not included* in the original charter to Baltimore. Even the language of the charter, now in possession of Maryland, shews this.

My father got most of his information from documents found in the *roll office*, and *her majesty's* state paper office in London. I believe, however, that all was obtained from the latter, except the *original charter*.

If you desire it, I will answer any number of questions you may choose to ask me on this subject, or do anything in my power to serve you. My father loved you dearly, and all his children still do.

I remain, dear General,
Your sincere friend,

W. N. McDONALD.

Direct to Principal Male High School, Louisville, Ky.

RICHMOND, VA., *March 8th*, 1871.

To His Excellency GILBERT C. WALKER,
Governor of Virginia:

SIR:

The commissioners appointed on the part of Virginia, to ascertain and adjust her boundary with Maryland, unanimously concur in the opinion that they cannot proceed with their work without the vouchers once obtained from England, and now lost, and that they must be sent for by a special messenger. They respectfully ask your approval of this step, as they regard it indispensable.

They have, therefore, named the Hon. D. C. DeJarnett as the most proper messenger to procure these important papers, taking the report of A. W. McDonald, of Feb'ry 2d, 1861 (2), as a guide or index of search for what is now wanted, but with instructions to search for other muniments of Virginia's title to the line of 38° N. latitude on the Eastern Shore; to examine particularly the records of the general quarter court in England. The Plymouth and London companies were governed by two supreme councils—first, the council of state; second, the gen'l assembly—and their laws had to be ratified by the general quarter court in England.

I do not find that McDonald examined these. His copies were chiefly from the British museum; from the state paper office, and from the roll office of British archives.

Again, after the rights of Lord Baltimore had been contested by Virginia grantees for nearly half a century, in the latter end of the 17th century, the proprietary rights of the Calverts was taken away, and Maryland was made a royal province, and so remained until the year 1715. *Then*, in 1715, the proprietary right was restored to the Calverts and continued undisputed until the revolution of 1776.

It is important that the original of this re-grant should be copied and vouched.

With these special instructions he ought to be given general powers to seek for and copy any other papers of muniments, or maps pertaining to the boundary of the state.

With the highest respect,
Your ob't servant,

H. A. WISE.

(Following this communication there appears to have been a letter from Gen'l Wise to Mr. DeJarnett, of 9th March.)

SPRING GROVE, CAROLINE, VIRGINIA,
March 19th, 1871.

Gen'l Henry A. Wise:

My Dear Sir:

I had the honor to present yours of 9th inst. to his excellency Gov. Walker, who promptly worte to the sec't of state at Washington the object of my mission, and requesting such assistance as the department might properly give me.

I reached Washington on the 10th inst., but not until the 13th could the secretary be seen, he being engaged during office hours in attendance on the joint high commission, now in session in Washington.

He very obligingly furnished me with a letter to Mr. Horan, in charge of the legation at London; and I also obtained from Sir Edward Thornton, the British minister, &c., &c., resident at Washington, another letter to Mr. Hammond, the under secretary of state, in charge of the colonial office, London.

These letters were deemed sufficient to secure my admission into all the depositories of official records necessary for us to examine.

I left Washington on the 15th inst., and shall only remain at home to make hurried preparations for my leaving for London.

May I ask that you make full notes of all papers, evidence, &c., necessary to be procured, and have them in readiness when I call, before leaving for England, as well as my commission.

Most respectfully, yours, &c.,

D. C. DeJARNETT.

WASHINGTON, D. C., *April 4th*, 1871.

Gen'l H. A. Wise:

DEAR GEN'L:

The enclosed letter from Mr. Holladay will explain the reason why I have not left for England, and also why it is that I cannot fix the day for my departure.

My commission bears the authentication of the state department as well as that of the minister of England. Thus my arrangements are complete.

I have seen Mr. Thos. Green, of this city, who anticipates large results should my mission be successful. I shall write you from New York before I sail.

Very respectfully, yours, &c.,

D. C. DEJARNETT.

P. S.—I have written to Holladay that I will postpone my departure until the 15th, provided he cannot possibly be ready sooner.

COMMONWEALTH OF VIRGINIA,
OFFICE OF SEC'TY OF COMMONWEALTH,
Richmond, April 1st, 1871.

Gen'l H. A. Wise:

DEAR SIR:

If you have the time, and don't mind the weather, I would be glad if you would come to the state library to examine some maps we have found bearing upon the boundary question, and made from data obtained by Col. McDonald. I venture to give you this trouble, because the maps cannot be sent to you without injury from the rain, and because I suppose you may desire to communicate with Col. De-Jarnett, after seeing them.

Very respectfully,

JAS. McDONALD,
Sec'ty of commonwealth.

Note by Gen'l Wise.

Saw the maps referred to the next day, and found them to be sections of Michler's survey.

BALTIMORE, *April 17th*, 1871.

Hon. H. A. Wise:

MY DEAR SIR:

Years ago, whilst in the law practice in Washington, I was of counsel in a litigation there involving the Potomac riparian of Virginia and Maryland.

The parties litigant were the Great Falls (Potomac) Co. and the U. S. Aqueduct Co. Hall Wilson, of Richmond formerly, was president of the Falls Co. At the instance of his counsel (of whom Chilton & Magruder were a part), he procured the opinion of Reverdy Johnson, then, as now, *Maryland's* great lawyer. This paper I have, lately *unearthed* from *debris* of old documents, and as it bears materially and impressively on the pending boundary question between Maryland and Virginia, which are now in charge of the commission, of which you are a member. I beg to send it to you, and to my friend Col. DeJarnett, your colleague, as a small, but perhaps valuable, contribution to the historical and legal literature which pertains to the subject, and which strongly sustains the rights of our beloved commonwealth. In the hope that you may find it of some service, and that its references and authorities may prove valuable to the Virginia commission,

I beg to remain,
With great respect,
Yours very truly,

ALLAN B. MAGRUDER.

Letter received from Mr. DeJarnett, dated London, May 28th, 1871, to Governor Walker.

Reports his arrival on the 27th inst. (should be *ulto.*)

Delay in gaining access to the departments.

Difficulty in procuring information from the rolls office, in consequence of its removal. Reluctant permission given to make partial examination.

Commenced work the 24th inst.

RICHMOND, VIRGINIA,
June 23*d*, 1871.

Hon. D. C. DeJarnett, Com'r, &c., &c.:

DEAR SIR:

His Excellency Governor Walker, was kind enough to refer your letter to him to me, and allow me to confer with him upon its contents.

I could not but regret the inopportune event of the removal of the archives of the state paper office, for the reason that we cannot wait the time required for their arrangement so as to admit your access to them. It was from that office that your predecessor, McDonald, obtained much, if not the most, of the valuable matter of his report. But I know that from the museum, and the rolls, and other sources, we may expect to supply many of McDonald's vouchers. The maps are very important. A copy of the first English edition of Smith's history of Virginia, with best maps, is very important. The Latin original of the grant to Lord Baltimore—Cecilius Baltimore—and an authorized translation of it; and, if not the original, the best verified copy of it, with the authorized translation.

Baltimore's proprietary grant having been previously taken away, it was restored as late as 1715, and it is important to know the exact terms of its restoration. A copy of that is important. These and many more records may be got at and copied and vouched—such as show the boundaries of parishes, for example—to ascertain where, geographically, Catholics and Quakers were excluded to a line, as between the Catholic colony and the colony enforcing the oaths of "Allegiance and Conformity." These, all you can, obtained, you might leave memoranda for other copies not now accessible to you, and return with what you have. This is necessary, not only to give time for field work this year, but to prevent the exhaustion of our very small appropriation. Don't, if avoidable, I advise, draw any more upon it now; leave enough for our surveyors, clerks and field work. When the legislature meets, we can apply for more if necessary. I send this enclosed through the governor's communication to you.

With the highest respect,

HENRY A. WISE.

52 ADDISON ROAD, KENSINGTON,
LONDON, *June 20th*, 1871.

To Gen'l Henry A. Wise:

MY DEAR GEN'L:

I have *just* cause of complaint against you for not writing to me. Suggestions from you would have thrown light on the narrow and misty path I have to pursue in the wilderness which I have been exploring since I reached here.

In my reply to a communication from Gov. Walker, I requested him to send the letter to you, which would have advised you of my progress to date. Up to that time my progress was slow necessarily, and the great labor with *that* was achieved, rendered it still more unsatisfactorily. I have now the honor to report, that I have obtained all developed in McDonald's report, and much more, in a more satisfactory connection.

I commenced with the discovery and *attempted* settlement by Sir W. Raleigh, in 1590. I have the charter with all its amendments given the London company in 1607, under which Virginia was settled, and the order of revoking that charter of date 1623, and at the same time a proclation from the king to the colony securing to it every right derived from the first charter, *changing* only their form of government.

Lord Baltimore and his Brother Peasley (his brother-in-law), appear in 1626. In 1628 they obtain a charter to settle a colony in Canada, where Lord Baltimore goes, leaving Peasley sec'ry to the king. Their expectations in Canada not being realized, Lord Baltimore visits Virginia in 1630, returns the same year to England, and in 1632 he and his Brother Peasley obtain their charter for Maryland. Of this charter I have obtained six copies, one which I am sure has not seen the light for more than a century. This is enrolled on parchment, and was not with the colonial papers of Maryland or Virginia. It purports to be the *original,* it is in Latin, and the whole I have had copied by the keeper of the rolls, and whose charge for official copies is exorbitant, and for the official stamps on this paper the charge was 12 £.

Mr. Tomlin's translation of the Latin charter, and which I have, does NOT warrant the conclusion arrived at by Mr. McDonald, when he says in his report (referring to Mr. T.'s translation) cannot be so

interpreted as to permit the Maryland boundary along the Potomac to be on the Va. shore, &c., &c. The four copies of this charter, I obtained from the museum, and in *printed* pamphlets (*I have the pamphlets entire*), and also two, printed, which I found in the rolls office among the loose papers of Maryland, read as the one you have in the land office in Virginia, a copy of which you have in Mr. McDonald's report.

The care taken by Mr. Peasley (who from *the records it is apparent was a Jesuit*) to have so many of these charters printed, and in different books or pamphlets, and carefully concealing the *original*, has impressed the conviction on my mind, that he had altered it to please the fancy of Lord Baltimore, who had spent much time on the Chesapeake and its tributaries, and fully appreciated the importance of the *Potomac river*.

In the loose papers of Maryland, I found a slip *without* signature, but in the handwriting of Lord Baltimore, referring to the original charter in the possession of Mr. Peasley. I have an agent looking over the files of Mr. Peasley's department to which I *cannot get* access. I have the king's assurance that Lord Baltimore's grant applies only to the *unsettled* and *uninhabited* of the Va. colony. I have also records to show that Clairborn's settlement, the Isle of Kent, was not only settled, but at the date of Lord Baltimore's grant, was represented by a burgess in the Virginia house of burgesses.

I have been fortunate in finding what Mr. McDonald failed to discover, but to which he alludes, the original grant to Lord Culpeper and others, with the amendments made by the king after his exile. This confirms to Virginia the Potomac river, and all the islands within its banks. The date of the amended grant is 1663, of the first when in exile in 1651. I have traced Mr. Peasley, on whom Lord Baltimore depended in his absence to the grant of Penn, to Wm. Penn, in 1681, he again becomes conspicuous. The controversy in regard to Mr. Penn's boundaries throws much light on our Eastern Shore line, which is thereby defined to be on the 38th lat.

I have the letter of the king to Lord Baltimore (referred to by Mr. McDonald) so defining it, and Lord B.'s admission of it. Systematic efforts have been made by *those in authority at the time*, to obscure the boundary. That the department *could* furnish all we want, I have no doubt, but the work is greater than you can conceive. For eight hours each day since I obtained admission, I have been in this wil-

derness of *old manuscripts*, and not unfrequently the case, that I do not find a line for my reward during the day.

There are many missing links yet in our chain, often I have supposed them found, but they miss it; and I turn again to the *mountain* for a *particular* grain. *They are here*, and if health and money permit, I will get them.

In the museum I daily spend *two* hours, from 4 to 6; the rolls office, where *alone* official records are kept, closes at 4 o'clock; *here* I obtain corroborative evidence of my discoveries in the rolls office. In the map department of the museum, after much worry and vexation of spirit, and bribery, I have all the maps. I want to have them traced on linen, as taken by McDonald might satisfy us. In *so* delicate a *controversy* they would be *embarrassing*, as errors of omission or commission would destroy or make at pleasure; I have therefore a written contract (the second I have made) with a Litho-tdpographer, and a fac simile guaranteed. From this process there is no appeal as to *fidelity*. It is, however, very expensive, each map costing from 5 to 20 *guineas*. These maps, many of them, dot the Maryland line to the Potomac on the north bank, and run the line across the bay from Point Lookout.

There is a part of the Museum known as the Greenville Library, created by private funds and contributions. So large have been the contributions, of private libraries, &c., &c., that it is now larger than the United States Library at Washington. No one who is not a member is admitted. It is a sort of depository of papers of *extinct families*. From this intimation, I conceived the idea that Brother Peasley's papers might be there. To get it was the next thing; but only into the book departments could I obtain admission. My labor here was rewarded by finding Augustus Herman's map of Maryland, also a printed pamplet, containing a copy of the charter of Maryland—the pamphlet, the same as found in the museum and rolls office. Peasley's and Lord Baltimore's papers I therefore judged to be in this library. My faith is such that I have employed an agent to thoroughly examine the same. Much depends on his fidelity, but as his reward is mainly hypothical, I hope for success; but much time must elapse before the investigation is thoroughly made. This is the map alluded to by Lord Baltimore in answering the questions of the board of trade. This A. Herman was a pensioner on the bounty of Lord Baltimore, and carried to Maryland to do that work. This map was hunted for by McDonald in every depository of public records in London in vain.

It was at the house of this Herman, in Maryland, that Lord Baltimore met William Penn, in 1683, to adjust their boundaries. I have all that occurred at that interview, which throws much light on the Eastern Shore boundary.

I have thus given you a synopsis of what I have been doing and what I hope to accomplish. I am sick *nigh unto death of London.* Nothing could induce me to remain another day, but my sense of duty.

I could, if my agent in the Greenville Library succeeds, leave here in ten days, but for the maps. The shortest time that I could contract for their delivery was six weeks. Some artists required *three months;* by additional compensation I am to receive them in six weeks from 6th June.

There is more *red tape* here, and it is more expensive I am sure than anywhere else, so that if I can leave here by the 1st August, I shall be fortunate. No one who has not been in the departments here, can form any conception of the systematic robbery of time and money to which I am subjected. All make something out of you, and therefore keep you as long as possible.

These papers, when copied, I have again to examine with the originals, which again will have to be hunted up, as you are not allowed to mark or put aside any paper. This takes time and money. Living here being so expensive, not a moment I loose, though my progress doubtless seems slow; still, under the circumstances, and in view of all the obstacles, I am satisfied with it. I miss Holladay very much, who, for *domestic* reasons, was unable to meet me in New York, though I expected him to have done so when I left home. Had he been with me here greater dispatch would have attended, *doubtless*, our enterprise. The records of quarter courts, to which in your note you refer *me*, and alluded to by McDonald, are "non est inventus." A letter from Mr. Tomlin, now before me, — that no such records exist, as there had never been any such court.

From this long letter you will be able, if you read it to the end, to see what I have been about. It may seem from your standpoint, that my task was simple and easy of accomplishment, but when you remember that all papers (except those relating to England proper) are placed in the colonial department, and, which contains the history of all the colonies of England, among these you find in no regular order those of Maryland and Virginia. Every petition, all grievances, all arrests and trials—in other words, the private history of every fam-

ily—were required to be sent to E'd. All these you have to read to find what you want, and then you don't find it. There is yet much to do. Indeed years would be required to perfect this case and get all that relates to it. Will you write, on rec't of this, synopsis of the points in the case, supplying my omissions? With my mind on the records, I cannot review it in all its bearings.

I have obtained also the revocation of the charter of Maryland by Wm. of Orange, and when yesterday I desired to follow this through his reign, I was told it could not be allowed. Earl Granville's permission for me to examine the records, extended to the reign of Queen Ann. I desired to *embrace her reign*, but this he refused and limited me to that of Wm. Prince of Orange. I shall obtain his written order accordingly, which I doubt not will take me a week.

With sentiments of the highest regard,

I am general,

Yours, most respectfully,

D. C. DeJARNETT.

P. S.—I omitted to state that I have all that is required in regard to North Carolina.

Please let Gov. Walker see this.

D. C. DeJARNETT.

Note by Gen'l Wise.

Presented to Gov. Walker, as he will see by Mr. DeJ.'s request. Please read and return.

HENRY A. WISE.

SPRING GROVE, *August 8th*, 1871.

DEAR GEN'L:

I returned to Virginia on Friday last, and intended to have reported to you on Monday, 7th inst., but am prevented from leaving home by the illness of one of my children.

There is a change this morning for the better, and soon I hope to have the pleasure of meeting you.

Most respectfully, &c.,

D. C. DEJARNETT.

To Gen'l H. A. Wise, Richmond, Va.

RICHMOND, VA., *August* 11*th*, 1871.

To Col. Wm. Watts:

DEAR SIR:

Mr. DeJarnette arrived here yesterday and deposited with me the documents, &c., he obtained in England, for our inspection and study. To examine them will require sometime, and they are here for your use whenever your convenience will permit you to come on and examine them.

We must now promptly make the most of the vouchers which we have, and prepare for field work at the earliest practicable period.

Very respectfully and
Truly yours,

HENRY A. WISE.

Col. Wm. Watts, Big Lick, Va.

BIG LICK, *August 10th*, 1871.

DEAR SIR:

I received a day or two since yours of the 11th, informing me of the return of Mr. DeJarnett with the documents and records relating to our boundary question.

My engagements are such that I cannot possibly go to Richmond earlier than next week, probably about Wednesday or Thursday. I imagine it cannot take very long to examine and understand these records, especially with the assistance of yourself and Mr. DeJarnett.

I do not fancy the idea of "taking the field," or water either upon our surveying expedition before *frost*, having a very strong *up-country* repugnance to fevers of all sorts.

But we will talk about this.

Very respectfully and
Truly y'r ob't s'v't,

WM. WATTS.

Gov. H. A. Wise, Richmond, Va.

EXCHANGE HOTEL, RICHMOND, VA.,
August 26th, 1871.

DEAR SIR:

I arrived here to-day by the Danville train, and went immediately to your office, but missed you by a short time.

I should be very glad to get the documents and records brought from England by Mr. DeJarnett *this evening*, so that I may commence their examination. How shall I get them?

Very respectfully and truly,

WM. WATTS.

Gov. H. A. Wise, Richmond, Va.

Note by Gen'l Wise.

Received (the above) at 10 minutes after 6, P. M., Saturday, August 26th, 1871.

He arrived here the 2d September, and left the morning of the 6th of same month.

NEWTOWN, MD.,
Sept'r 3*d*, 1871.

HON. HENRY A. WISE,

DEAR SIR:

Your esteemed favor, in reply to a note from me in March, was duly received, in which you informed me of a messenger to London to procure documents relating to our state boundary question.

Several weeks ago, I saw in the newspapers a notice of the successful mission and safe return of one of your colleagues, Hon. Mr. DeJarnett. Since which I have expected a communication from you on the subject, but have heard nothing.

The season is passing, and the time for action fully at hand. Though I write without the instructions of my colleagues, I venture to suggest that our commission will be pleased to meet you at such time as may suit your convenience for organization, either at Richmond, Washington, Annapolis or Baltimore, or even at Horntown or Newtown, but I suggest Annapolis or Baltimore for the convenience of documentary reference.

When your commission have fixed upon a time and place for such meeting, I must ask of you the favor to inform I. D. Jones, att'y-gen'l of Mary., at Balto., and Leven L. Walters, Esq., of Princess Ann, Md., of the same, and give me notice thereof as many days in advance as you conveniently can.

I am, dear sir,
With profound respect,
Obediently and truly yours,

WM. J. AYDELOTTE.

RICHMOND, VA.,
Sept. 6th, 1871.

To Wm. Aydelotte, Com'r, &c.:

MY DEAR SIR:

As you suggest Mr. DeJarnett has returned from London, bringing with him much valuable historical matter as to the boundary of Virginia and Maryland, but he has not yet made his official report to the governor of this state, and sometime must be allowed to the colleagues of this commission to examine the matter which he brings with him. I am assured that the Virginia commissioners will not delay in examining his report, and that as soon as they can proceed on the joint commission they will have you duly informed.

Both of my colleagues, too, are from the upper country of Virginia, and object to visiting the Eastern Shore, until the malarious and equinoctial seasons are over. We desire to be able to report to the legislature of this state at the commencement of the approaching session, and will not unnecessarily delay a conference and joint action with you. When the time and place of meeting for the joint commission is fixed, you shall be promptly advised. I think you may expect our appointment or suggestion, rather of the time and place to be at Washington city or at Annapolis, sometime about the first week in next month.

Will you please give this information to Mr. Jones and Mr. Waters, your colleagues.

Very truly and respectfully,
Your obedient servant,

H. A. WISE.

Mem. by Gen'l Wise.

Sept. 6th, 1871.

Notified Mr. DeJarnett to make his report to the governor of his message to London, and requesting him to confer as to the time and place of the joint com'n with Maryland.

H. A. WISE.

RICHMOND, VA., *Sept'r 16th*, 1871.

DEAR SIR:

Mr. DeJarnett and myself have agreed to meet in Washington city, on the boundary commission, during the first week of October next, and to write the Maryland commissioners, to meet those of Virginia at that city, on the 9th of October next.

We hope this will suit your convenience, and that you will attend at the time named.

Very respectfully and
Truly yours,

HENRY A. WISE.

Col. Wm. Watts, Big Lick, Roanoke Co'y, Va.

RICHMOND, *Sept.* 16*th*, 1871.

DEAR SIR:

The commissioners on the part of Virginia, to settle and adjust the boundary of the states of Maryland and Virginia, have agreed to meet each other in Washington city during the first week in October next; and they propose, if agreeable to them, to meet the commissioners on the part of Maryland at that city, *on the 9th day of October next.* Will you please inform me whether this will be convenient to you and your colleagues; and, if not, please say what time and place will suit you and them. It will give us pleasure to endeavor to conform to your wishes.

Most respectfully and truly,

HENRY A. WISE.

To Hon. Isaac D. Jones, Att'y-Gen'l, Baltimore, Md.; L. L. Waters, Esq., Princess Anne, Md.; W. J. Aydelotte, Esq., Newtown, Md.

[A copy of the above was sent to each of the gentlemen to whom it is addressed. C. E. S.]

BALTIMORE, *Sept. 18th*, 1871.

Hon. Henry A. Wise:

DEAR SIR:

In reply to yours of the 16th inst., proposing a meeting of the Virginia and Maryland commissioners upon the boundary question, at Washington city, on the 9th October (if that day will be convenient to the Maryland commissioners), I regret to state that engagements of at least two of the Maryland commissioners for that, and several succeeding days, will prevent them from meeting the Virginia commissioners at that time.

I will confer with my colleagues, and ascertain the time when they can meet the commissioners of Virginia, and will write you again upon the subject.

Very respectfully and truly,

ISAAC D. JONES.

RICHMOND, *Sept.* 20*th*, 1871.

DEAR SIR:

Hon. I. D. Jones, of Baltimore, informs me that the Maryland commissioners on the boundary question, cannot meet those on the part of Virginia on the 9th October as proposed; that he will confer with his colleagues, and communicate further with me.

You will be duly informed of any appointment they may propose.

Very respectfully,

HENRY A. WISE,
Per Snodgrass.

Copies sent to Col. Wm. Watts, Big Lick, Roanoke Co., Va.; Hon. D. C. DeJarnett, Milford, Va.

NEWTOWN, MD., *Sept.* 19*th*, 1871.

Hon. Henry A. Wise, Richmond, Va.:

My Dear Sir:

Your esteemed favor of 16th inst. "for Virginia commissioners" is at hand. In reply to your suggestion, of Washington city as the place, and the 9th October next as the time, for the commissioners on the part of Virginia, and those on the part of Maryland to meet, I have the honor to say, the Maryland commissioners have for several months, held themselves in readiness to meet your commissioners, at such time and place as you might be pleased to propose in order to a preliminary organization for the important work before us. But on Saturday, the 7th of that month, I have to be in my county to execute a fiduciary trust, that under our laws cannot be delegated to another. Monday morning, 9th, our boat leaves here, and is due in Baltimore the following day.

May I therefore ask you to make it agreeable to your commission, to join us two days later than the day you name, to-wit: in Washington city, on Wednesday, 11th October next. I will mail to each of my colleagues, simultaneously with this, a communication informing them of our agreement, and pledge for them a cheerful acquiescence therein, if no unavoidable engagement prevents.

I am, dear sir,
With profound respect,
Obediently yours,

W. J. AYDELOTTE.

RICHMOND, *Sept.* 22, 1871.

W. J. Aydelotte, Esq., Newtown, Md.:

D'R SIR:

Your valued favor of 19th inst., is to hand and noted. The Virginia commissioners will meet those of Maryland in Washington city, on the 11th day of October next.

Very respectfully,

HENRY A. WISE,
Per C. E. Snodgrass.

RICHMOND, *Sept.* 22, 1871.

DEAR SIR:

Referring to my letter of 20th inst., I now have to inform you that the 11*th day of October next*, and Washington city, is the time and place agreed upon for the meeting of the joint commission on the boundary question. I hope it may suit your convenience entirely.

Very respectfully,

HENRY A. WISE,
Per C. E. Snodgrass.

Hon. D. C. DeJarnett, Milford, Va.; Col. Wm. Watts, Big Lick, Roanoke Co., Va.

RICHMOND, VA., *Octo.* 2*d*, 1871.

Hon. I. D. Jones, Com'r, &c.:

DEAR SIR:

With a view to convenience, I shall proceed to Washington city, on Saturday next, to receive any communication from the boundary commissioners on the part of Maryland as to the time and place which they may suggest arranging the meeting of the joint commission. I trust it may be agreeable to meet at Washington or Annapolis some day next week. I have so notified my colleagues; and any notice from you will reach me at the house of Doct. A. Y. P. Garnett, No. 1328 N. York avenue, Washington city, after Saturday next.

Very truly yours,

HENRY A. WISE.

RICHMOND, VA., *Octo. 2d*, 1871.

DEAR SIR:

On Saturday next I shall proceed to Washington, on the commission of the boundary between Virginia and Maryland, and so notified the commissioners of Maryland, in order that they may notify me there of their wishes as to the time and place of the meeting of the joint commission.

I will be very much gratified to have you meet me there some day next week, at your pleasure and convenience.

I will be at Doct. A. Y. P. Garnett's, No. 1328, New York avenue, W. city.

Very respectfully and
Truly yours,

HENRY A. WISE.

Col. W. Watts, Big Lick, Roanoke Co., Va.

PRINCESS ANNE, MD.,
Sept. 20th, 1871.

Hon. Henry A. Wise:

D'R SIR:

Your letter of the 16th inst., inviting me to attend a meeting of the Maryland and Virginia boundary commissioners, in the city of Washington, on the 9th of Octo. next, reached me by our last mail.

In reply, I have to say, that I deeply regret my inability to attend the meeting at the time and place suggested.

Our court, of which I am clerk, convenes on the 9th prox., and my presence here is absolutely necessary. Our court will probably be in session about two weeks, and from that, the time of its adjournment, until the 7th of November (our election), I shall be engaged in canvassing, and will not be able to make or accept any appointment for a meeting before the 7th of November, unless such meeting can be held before the 9th of October, the day you suggest.

It is possible that both Mr. Jones and Mr. Aydelotte may be able to accept your appointment, and if this is so (as my presence is not indispensable), the meeting may be held as you desire.

I presume you have written to both these gentlemen, who will answer for themselves.

Very respect., &c.,

LEVEN L. WATERS.

P. S.—I have written to Messrs. Jones and Aydelotte, requesting their attention to the matter.

RICHMOND, VA., *Oct. 2d*, 1871.

DEAR SIR:

On Saturday next I shall proceed to Washington, on the commission of boundary between Va. and Maryland, and so notify the commissioners of Maryland, in order that they may notify me there of their wishes as to the time and place of the meeting of the joint commission.

I will be very gratified to have you meet me there some day next week, at your pleasure and convenience.

I will be at Doct. A. Y. P. Garnett's, 1328 N. York avenue, W. city.

Very respectfully and truly yours,

HENRY A. WISE.

Hon. D. C. DeJarnett,
Milford Depot, Caroline Co., Va.

WASHINGTON CITY, *Octo 8th*, 1871.

DEAR SIR:

I am here at No. 1328 New York avenue, Dr. Garnett's. I will to-morrow look to the detail of surveyors. Michler is not here, he is in California, and De la Camp is where no one can tell me.

If you have Michler's report please bring it with you, and let me know where to find you immediately on your arrival.

Yours truly,

HENRY A. WISE.

Hon. D. C. DeJarnett.

WASHINGTON CITY, *Octo. 8th*, 1871.

DEAR SIR:

I arrived here last evening, and will be glad to hear from you at this place.

I am authorized to unite with you in obtaining a detail of surveyors from the superintendent or the coast survey. I will see what can be done in that behalf to-morrow. May I have the concurrence of the Maryland commissioners in making that arrangement in time for our joint meeting? I am awaiting your communication as to the time and place of that meeting, and am expecting my colleagues daily.

Address me at Washington city, No. 1328 New York avenue, care Doct. A. Y. P. Garnett.

Yours, very truly,

HENRY A. WISE.

Hon Isaac D. Jones, Baltimore, Md.

Memo.

WASHINGTON CITY, *Octo. 10th*, 1871.

Wrote to Messrs. Jones, Waters, and Aydelotte, commissioners of Maryland: That I will leave here Friday next for Crisfield, and will be there on the 17th inst.; requesting to meet them; hoping they will unite in running the lines; and notifying them that I had requested the attendance of a surveyor from the coast surveyor's office.

H. A. W.

Also wrote to same effect to Mr. DeJarnett and Col. Watts.

ELLISDALE P. O., NEW JERSEY,
Octo. 14*th*, 1871.

HON. HENRY A. WISE, *&c., &c.:*

DR. SIR:

I received information two days ago, from the office of the coast survey at Washington, that the joint commiss. appointed by Virginia and Maryland to settle and adjust the boundary line between the two states on the Eastern Shore of the Chesapeake, would meet at Crisfield on the 17th inst., and that it was expected that I or the surveyor would then be present and prepared to proceed to the field.

I regret to say, that owing to the shortness of the notice, it will be impossible to make the detail and the arrangements to commence any survey before the close of the present mo.

I propose to leave here on the 16th, with the intention of meeting the commission at Crisfield on the 17th, the day specified by you in communication with Mr. Hilgard.

I am, respectfully,
Y'r obt. svt.,

RICH'D D. CUTTS.

BALTO., *Oct. 9th*, 1871.

Hon. H. A. Wise:

DR. SIR:

Your favor of yesterday is recv'd. I regret that the engagements of Mr. Waters and myself precludes our meeting your comm'rs before Tuesday, the 17th inst. Mr. Waters will not be able to meet us until after Nov. 7th, but desires Mr. Aydelotte and myself to meet you at any time before then that might suit the convenience of your commissioners and ours. I shall be unable to devote more than a day or two to a joint meeting for a month to come; but I am desirous that we shall meet and confer as to what surveys, if any, are necessary. No appropriation has been made by the Maryland gen'l assembly for surveys, and no authority to incur any expense therefor, except it be implied from the power "to settle and adjust the boundary line, their work to be reported to the gen'l assembly to be approved or rejected." The surveys by Col. McDonald and Col. Lee, in '58, and by the commission of the two states in 1867, are probably in your possession, and may aid us so far as they went. I am going to Princess Anne to-morrow, and will confer with my colleagues, if possible, while there, and fix upon a day when two of us at least can meet you in Washington. I hope to return by Saturday next, and will then write you again.

Very truly y'rs,

ISAAC D. JONES.

Telegram.

PHILA., PA., 16*th Octo.*, 1871.

Boundary Commission, Crisfield, Md.:

Will meet the commission at Crisfield to-morrow afternoon.

R. D. CUTTS.

Hon. H. A. Wise.

Telegram.

PHIL., PA., 17*th Octo.*, 1871.

Hon H A Wise:

I find it impossible to meet commission to-day. Please give me notice, at Washington, of the time and place of next meeting.

RICH'D D. CUTTS.

Telegram.

WASHINGTON, D. C., 18*th Oct.*, 1871.

Hon. H. A. Wise, Boundary Commission:

Will be at Crisfield on next Saturday morning.

RICH'D D. CUTTS.

PRINCESS ANNE, MD., *Octo. 12th*, 1871.

Hon. H. A. Wise:

DEAR SIR:

Your favor of the 10th inst., suggesting a meeting of the Virginia and Maryland boundary commissioners, at Crisfield, on the 7th inst., was duly received. In reply I regret to say that it will be impossible for me to attend any meeting of the boundary commissioners until after the 7th prox.

Our court is now in session, and is likely to continue so through the greater part of next week, and as I am clerk of the court my presence there is indispensable. And after the adjournment of our court, I expect to be engaged in canvassing until the election, which occurs on the 7th of November prox.

I saw Mr. Jones, who is attending our court, shortly after the receipt of your favor, and handed it to him.

He desires me to say, that he has an engagement in Washington, on the 17th inst., the day suggested for the meeting at Crisfield, and that he and Mr. Aydelotte have arranged to meet you there. He will leave here to-morrow, the 13th, and expects to go to Washington on Wednesday next to meet his engagement there and says that it will not be possible for him to be at Crisfield on the day you suggest.

Regretting sincerely my inability to be present, at your preliminary meeting, but believing the interests of my people will be safe in the hands of Messrs. Jones and Aydelotte, I have consented that the meeting shall be held without my presence, and hope there will be no delay or disappointment.

Very respectfully, &c.,

LEVIN L. WATERS,

CRISFIELD, MD.,
Saturday, Octo. 21*st*, 1871.

W. J. Aydelotte, Esq.:

DEAR SIR:

Mr. Cutts, of the coast survey, arrived this morning, without any detail or instruments for survey, and Capt. Brown, of the steamer Tredegar, has not, up to this hour, 1 o'clock, P. M., arrived. After conference and consulting with Mr. Cutts, the commissioners for Virginia have concluded to return home, as there is no opportunity at present, at least, of having a meeting with the Maryland commissioners. We do not, of course, propose now to run the line, as understood when you separated from us. You will please communicate this result of our attempt to confer and act with the Maryland commissioners to your colleagues. Any communication from them will reach me at Richmond, Va.

Y'rs, very respect. and truly,

HENRY A. WISE.

BALTO., *Novem. 25th*, 1871.

Hon. H. A. Wise:

My Dr. Sir:

I was very sorry that my engagements precluded the pleasure of meeting you at Crisfield. I was at Princess Anne court when your letter reached here, and received it after my return to this city—too late to reply. I saw Mr. Waters a few days ago, and am authorized by him to say that the Maryland commissioners will meet the Virginia commissioners at Washington, or in this city, on any day of the week following Monday, 4th Decem. next. Tuesday, 5th Decem., will be convenient to us, if your commissioners can meet us.

There are two maps of ancient date in this city, showing the boundary between Va. and Maryland, on the Eastern Shore—one in the Maryland historical society's room, the other in the library of the Peabody inst'te. If your commission will meet us in this city, we can have opportunity of examining them. My official duties as att'y gen'l will probably terminate by the 1st Decem., and I design to unite with my colleagues immediately thereafter, in the hope of meeting our Virginia friends at their earliest convenience. Please let me hear from you.

Very truly y'rs,

ISAAC D. JONES.

RICHMOND, VA., *Nov. 27th*, 1871.

Hon. Isaac D. Jones:

My Dear Sir:

I concur with you fully in the regret that the joint commission of Maryland and Virginia could not meet at Crisfield, in the month of October, when the weather was so fine for field work and for traveling. Mr. Aydelotte, one of your colleagues, met me promptly. He and I at first met alone. Mr. Waters, your other colleague, did me the kindness to visit me at Crisfield and give me his reasons in person, saying he could not meet the appointment owing to his professional engagements, and I had no conference with him except in the most general way. With Mr. Aydelotte I had a most gratifying conference, and we visited the location of two ancient monuments of boundary on Smith's island corresponding with the monuments and marks east of the Pocomoke, and with the line of Michler east, continued by De la Camp, west of that river. My two colleagues then joined us, and the three commissioners of Virginia and Mr. Aydelotte agreed to run and rectify the whole line of Calvert and Scarborough in 1868, to ascertain its exact location, for the consideration of the joint commission when it should.

But delay was necessary to obtain a detail for the survey from the department at Washington. Mr. Aydelotte left us at Crisfield to make arrangements on the Pocomoke for running the line. On conference with Mr. Cutts, of the coast survey, after Mr. Aydelotte left, the commissioners of Virginia found that the work proposed could not be done before the next spring, and that the lines already run by Michler and De la Camp, and the monuments found on Smith's island, were sufficient for all the purposes of an experimental line in ascertaining the ancient marks and monuments fixed by Calvert and Scarborough in 1668. Thus, there being no necessity for running the experimental line anew, they concurred in adjourning and reporting upon the data already in hand; and they immediately informed Mr. Aydelotte of their conclusion. I received from him a very proper note, regretting this result, and have heard nothing further from the commissioners of Maryland, or either of them until the receipt of yours of 25th inst. this morning. The Virginia commissioners have had no meeting since that at Crisfield. One of my colleagues resides in the county of Car-

oline, and the other far distant in the county of Roanoke, and both, like myself, are busy; but I will at once communicate the contents of your letter to each of them, and inform you of their reply as soon as received by me. I fear that neither of us will be able to meet you as soon as you propose, if at all during the winter months. Certainly the running of a line should not be attempted during the winter season, and not until after the high winds of spring cease.

If the joint commission can meet at all, I myself prefer Baltimore as the place, not only on account of the maps you mention, but for many reasons which endear Baltimore to me, and from the fact that it is most convenient and accessible to the place of our labors. Cannot the two maps of the Maryland historical society and of the library of the Peabody institute be photographed? If so, at what cost? I have written at such length to inform you fully of our action at Crisfield; and to submit that the commissioners from each state shall delay during the winter and await further action of the respective legislatures of the two states.

Very respectfully and
Truly yours,

HENRY A. WISE.

RICHMOND, *Nov. 28th*, 1871.

MY DEAR SIR:

Yesterday I received a letter from the Hon. Isaac D. Jones, proposing for the commissioners of Maryland to meet those of Virginia, on any day of the week following the 4th of December next, naming Tuesday, the 5th, as most convenient to them. He names Baltimore as the place of meeting, for reason of certain ancient maps there. I have replied that I would confer with my colleagues; that I feared there was no probability of a compliance with his request; informed him of the result of our meeting at Crisfield; that we had determined to report upon the date already in hand; and submitting that, if further action is to be taken by a joint commission, it should be postponed until spring. I hope this meets your approbation.

Y'rs truly,

HENRY A. WISE.

Hon. D. C. DeJarnett, Milford, Caroline Co., Va.; Col. Wm. Watts, Big Lick, Roanoke Co., Va.

BALTIMORE, *Nov. 28th*, 1871.

Hon. H. A. Wise:

My Dear Sir:

I this morning received your favor of yesterday, while Mr. Aydelotte was with me. We were not aware that your colleagues resided so far apart and so distant from you. We agree with you that it is not probable they could meet us on the day suggested in my letter of 23d inst. Mr. Aydelotte and myself suggest, that you and your colleagues meet us in this city on Wednesday, the 20th December next—say at Barnum's hotel, at 10 o'clock A. M. This is the most central—or the St. Clair hotel, formerly the Gilmer house, on Monument square, near Barnum's. Both are equally convenient, and are first-class hotels—I mean convenient of access to the two maps of which I made mention in my last letter.

I had a surveyor to examine them, with a view to having them copied or photographed. He replied that they could not be photographed, but might be accurately copied. The one in the Peabody institute is in an atlas, and the map occupies two sheets. It was presented to the Institute by the late Jno. P. Kennedy, and formerly belonged to the Duke of Sussex, by whom it was presented to Mr. Kennedy. It was the atlas used in adjusting the N. E. boundary between the United States and the British American colonies. I have seen it only once, and then only for a few minutes, intending to examine it more closely at a more convenient season, which has not since occurred. The surveyor reported that it would cost $200 to make an exact copy of the two maps, and as my colleagues had not seen the maps, I did not deem it proper to incur that expense at present.

I have bestowed a good deal of labor upon the investigation of the subject, and am frank to say that it seems to me that the only alternative to a resort to the Supreme Court of the U. States, as suggested in one of your letters to Mr. Aydelotte, is an agreement upon a *compromise* line. I am more strongly confirmed in this view because of your letter now before me, and the statement of Mr. Aydelotte as to the result of your visit to Smith's island.

Your letter states, "we visited the localities of two ancient monuments of boundary on Smith's island." On reading this, Mr. Ayde-

lotte remarked, "the government is mistaken—we visited one, and two men undertook to look for another, but could not find it." But the most singular fact is, that about 4th December, 1867, the (3) three Virginia commissioners and the three Maryland commissioners, Aydelotte, Waters and myself, with Mr. De la Camp, visited Horse Hammock, staid all night with Capt. Johnson Evans, made every possible enquiry for monuments, traditions, &c., &c., of boundary, without being able to find out anything about a line or boundary. Captain Evans did not then profess to know anything of any boundary, but just the contrary, and we reported to the Maryland legislature, "there is no certain tradition so far as the commissioners could ascertain to fix the location of any divisional line between Maryland and Virginia *across* Smith's island." There is a tradition that a divisional line from Smith's point passed across the lower part of Smith's island below Horse Hammock (which has for many years been under the jurisdiction of Maryland, although the present proprietor stated to the commissioners, that a former occupant, many years ago, paid taxes, and took out a store license in Virginia.)" But where the divisional line was run, or whether any such line across Smith's island ever was run under the joint authority of the two states, there is no record or tradition.

That was the extent of the information given in the presence of all six of the commissioners. But the foregoing extracts are copied from the Maryland report, made in a few weeks afterwards, from memoranda written down on the spot. I think all this goes to show how exceedingly uncertain will be the result of *judicial proceedings*, unless some documentary evidence shall be discovered of which I have hitherto been unable to learn anything.

But let us meet like Virginians and Marylanders ever ought to meet, in the most fraternal spirit, and try to agree upon a compromise line.

Hoping to hear from you at your earliest convenience, and that the day named may suit you and your colleagues,

I remain, my dear gen'l,
Very truly yours,

ISAAC D. JONES.

P. S. I must apologize for this incoherent letter, I have been so frequently interrupted in writing it.

I. D. J.

RICHMOND, VA., Nov'r 30th, 1871.

Hon. ISAAC D. JONES:

MY DEAR SIR: In reply to yours of the 28th inst., I take pleasure in saying that I will submit your proposal to my colleagues, to meet the commissioners of Maryland at Baltimore, on Wednesday, the 20th December next. If they accept it, it will be agreeable to me; but, I repeat, I fear they will not be prepared to accede to your appointment, for reasons stated in my last letter.

Maps, such as you describe, would take time and cost to have them copied. They had better be inspected. By whom were they executed? When? For whom? If they are copied, I will propose to my colleagues to assume half the expense for Virginia.

I am gratified at your frank declaration, "that the only alternative to a resort to the Supreme Court of the United States, is an agreement upon a *compromise* line." The differences between the two states, as heretofore expressed by several joint commissioners, show that there is something to be given and taken by both sides, if they would avoid litigation. The delay of judicial proceedings would obviously be worse than the cost of them, and should, by all reasonable means, be avoided. I say this, whilst, at the same time, I am confident that Virginia can make good her case, before the courts, the extent of her claim. The commissioners of Virginia will gladly consider any proposition from those of Maryland, for an amicable and liberal adjustment.

I regret that I am obliged to except to the comment which you state was made by Mr. Aydelotte on a part of my letter to you. You say, "your letter states"—"we visited *the localities of two ancient monuments* of boundary on Smith's Island." You then add: "On reading this, Mr. Aydelotte remarked, 'the Governor is mistaken, *we visited one*, and *two men undertook* to look for another, but could not find it.'" Mr. Aydelotte certainly could not have marked the words of the sentence of my letter which you say he read, and which you have quoted. I was precise in my general statement, and accurate, too, without going into particulars. I will now state, particularly, the facts, in which I am sure he will concur: Mr. Aydelotte accompanied me on board the steamtug Tredegar, Capt. Brown, from Crisfield, during the time that he and I were there, without the presence of any

other commissioner from either state, to the east side of Smith's island. The tug anchored just abreast the house of Johnson Evans, near Horse hammock. Johnson Evans, an aged man, was on board the tug, and on anchoring, we were immediately met by another aged resident of the island, John Marshall. I had long known both of these men, both having been voters and friends of mine during my eleven years service in the house of representatives of the congress of the U. S., from 1833 to 1844, and I had requested both of them to meet me, and to show me the ancient stones which I had known, by information, to exist from my early manhood.

This I had positively known, that the voting population of all the south end of Smith's island had ever, during my remembrance, voted at the polls of Virginia. I desired to see the exact line by which the voters of Virginia and Maryland had been ever separated in my day; and in days long before I was born; and I was curious to see whether the location of the monuments on Smith's island corresponded or not with the line of marks and monuments east of the Pocomoke river. To visit the stones then, Capt. O. Brown, Mr. Drummond, his mate, Mr. Aydelotte, Johnson Evans, John Marshall and myself took a canoe, and we were piloted straight, unhesitatingly, and directly, to a large stone, a few feet from the edge of the marsh, under water about eighteen inches, and about a mile north of Horse hammock; that this stone was shown to Mr. Aydelotte; that he saw it; that Capt. Brown bared his arms and touched it with both hands, stating at the time, under the view of all, that its upper end was in dimension about 1x2 feet, projecting from the muddy bottom, how far could not be seen; and how deep it was sunk in the bottom could not be seen; that it was full tide, and Evans and Marshall both said they had seen, and known of it all their lives; that we then landed abreast of the stone, on the marsh, and cited its bearing by the compass, and it corresponded remarkably with the line of Michler, continued by De la Camp, coming out at Crisfield, by James Taw's house, and cutting the terminus of the Crisfield railroad at the end of its wharf. The line from it eastward cuts over Great island. Both Evans and Marshall related their traditions of the stone; the ancestors of the one had been ducked, and the ancestors of the other had been whipped to fix this as a mark of boundary between Maryland and Virginia in their memories, and to make them deliver down the traditions.

For an historical reason, not necessary to be named now, I expected to find another monument somewhere in the thoroughfare at the north

end of Smith's island. I enquired if there was any such monument at or near the south end of Troy island, in the thoroughfare, and was informed by both Evans and Marshall that there was; and from the stone first reached we went north about two miles up to and into the thoroughfare to the locality where Evans and Marshall said the stone was to be found in the water, some seventy yards, or thereabouts, from the shore. By the time we arrived there the tide had risen considerably, and the water of the thoroughfare was very muddy and thick. Both of our guides were confident that we were at the *locality*, and within a few yards of the stone; they searched for it without a drag, with nothing but the ends of their oars and paddles, and though they struck a number of stumps at the bottom, showing that once there was marsh or high land there, they did not find the stone itself; and after about only a half hour's search, it being then late in the evening, we desisted from further search on being told that it could always be found at low tide, and that then it was always projecting out of the water, and was a stone of much larger size than the first, weighing perhaps more than a ton. Mr. Aydelotte and myself at the time too both expected that the joint commission would meet, and that a line would be run; and we engaged Evans and Marshall to mark the stone not found by the time we would return to it. I expected to find and visit another stone also on the west side of the island; and I am very sure I can and will find it.

Now, on this statement, I claim that I made no mistake in saying: "We," meaning Mr. Aydelotte and myself, "visited the *localities* of two ancient monuments of boundary on Smith's island," and Mr. Aydelotte's remark was incorrect in saying, "*we visited one*, and *two men* undertook to look for another, but could not find it." *We* visited two "*localities*," I said. I did not say that we found two stones. *We visited one locality* and found one stone; we visited the locality of another monument, but did not find the stone. Not "two men" only "undertook it," as Mr. Aydelotte says; but as I say, *six* men, Mr. Aydelotte among them, did visit the locality of another monument, and under the guidance of Evans and Marshall were shown the locality, though for the reasons stated it could not then be seen. It can and shall be found to your full conviction. Not only that but another also on Smith's island.

As to the traditions which you say the three Virginia commissioners and the three Maryland commissioners never heard of after every possible enquiry, on the 4th December, 1867, I can only say that there

has not been a day since the year 1830, when I could not have found many credible witnesses not only to repeat the traditions but to show you the monuments of boundary fixed on Smith's island; and I could have proved their testimony to be true by ancient records, and by poll books and deed books. But now is not the time, and this is not the place in which to discuss these issues of fact. Certain it is, that both Mr. Evans and Mr. Marshall stated their traditions to Mr. Aydelotte, in my presence, in October last past, and neither was challenged by him at the time for "stating just the contrary" of there being "monuments, traditions, &c., &c., of boundary" in December, 1867. I am aware of the report of the commissioners of Maryland and Virginia, and I trust that you and I will fully concur in correcting any errors which may be found in them. I am very sure none was intended.

I venture for my colleagues, as I cordially do for myself, to accept your generous tender, to "meet like Virginians and Marylanders ever ought to meet, in the most fraternal spirit, and try to agree upon a compromise line." Ask my friend, Mr. Aydelotte, whose temper and tone of adjustment made me respect and greet him, how earnest a disposition was manifested on my part to be generous, even as well as just. I took pains to assure him that I would not meet him on the commission as I would in a court. My duty was to be informed of the rights of my state, and to insist upon them; but after knowing exactly what I might take, or what surrender I was ready and willing to weigh, equitably, every circumstance attending the question of boundary, and to sacrifice even some considerable interests to foster the welfare of the people of either state. I was urgent that the people south of the Calvert and Scarbrough line, and north of the Pocomoke, should not be cut off from the fishery of the Pocomoke sound. We informally but fully discussed various suggestions of compromise, and he and I, if we had been the sole commissioners, could, I believe, have agreed. But all our views are now in abeyance. I cannot conclude without saying that it is not reputable to the two states to keep this issue an open one, and it will be the most dignified course to settle their territorial differences for themselves. I was and am most anxious to make the trial.

As soon as I hear from my colleagues, you shall hear from me.

I am, very respectfully and truly, yours, &c.,

HENRY A. WISE.

RICHMOND, Dec'r 1st, 1871.

DEAR SIR:

I am to-day in receipt of a letter from the Hon. Isaac D. Jones, one of the Maryland commissioners, on the boundary question, proposing that the Virginia commissioners meet those on the part of Maryland, at Barnum's hotel in Baltimore, on the 20th day of December next, at 10 o'clock, A. M. What say you to it?

Respectfully, &c.,

HENRY A. WISE.

To Hon. D. C. DEJARNETT,
Milford, Va.
Col. WM. WATTS,
Big Lick, Va.

BALTIMORE, Dec'r 15th, 1871.

Hon. H. A. WISE:

MY DEAR SIR: I duly received yours of the 30th ult'o, and 13th inst. I am obliged to you for your very full explanation of the result of your and Mr. Aydelotte's visit to Smith's island. It satisfactorily shows that Mr. A. "did not mark the words of the sentence of your letter." I now regret still more that I was not with you on that visit; and I am not sure that I have not done Mr. Johnson Evans injustice in confounding him with Steuart Evans, as I find the latter name on Mr. De la Camp's map. The Mr. Evans I remember to have seen in 1867, was not "an aged man." I shall be glad to ascertain every fact, of which any record or authentic tradition can be produced. Mr. Aydelotte did full justice to your liberal disposition in agreeing upon a compromise line. I regret that the 20th instant did not suit the convenience of your colleagues to meet in this city. Early in January, I am sure, will not suit Mr. Waters or myself. Summerset court, of which W. is clerk, will be in session until near the middle of January. But I hope that in the latter part of that month, you will be able to meet us in this city. There are some ancient MS. records in the MS. Hist. Society's Rooms, of which I learned the place of their deposite a few days ago, but which I have not yet had time to examine. These, and the maps which I mentioned, may be found of service in our investigations. The Atlas, in the Peabody Institute, as I recollect, purports to have been made from surveys by Peter Jefferson of Virginia. I will confer with my colleagues as to a future meeting, and inform you as early as practicable.

I remain, very respectfully and truly,

ISAAC D. JONES.

WASHINGTON CITY, Decem. 8th, 1871.

Hon. H. A. WISE, &c., &c., &c.:

DEAR SIR:

Please inform me if it is true, as stated in the public journals, that the question of the boundary line on the eastern shore of the Chesapeake, between Virginia and Maryland, will be referred for settlement to the Supreme Court of the United States, and that no further action in the matter will be taken by the joint commission appointed for the purpose.

I have prepared an estimate of the expenses to be incurred in making the survey, opening the line, &c., which I will forward if you think it desirable.

I am, very respectfully,
Yours truly,

RICH'D D. CUTTS.

RICHMOND, VA., Dec. 9th, 1871.

To RICH'D D. CUTTS, ESQ.:

DEAR SIR:

In reply to yours of 8th inst., I promptly say that it is not concluded to refer the question of boundary between the states of Virginia and Maryland to the Supreme Court of the United States; and I trust such may not be a necessity of the case. It is still before commissioners and they will probably take further action.

Please forward to me your estimate of expenses, &c. I desire to have them, and remind you of your promise, to send me the coast survey charts of the Chesapeake bay, and any duplicates your office can furnish of the surveys of Michler's and De la Camp on the eastern shore of the Chesapeake. I expect we will be on the survey together in the spring.

With great respect,
Your ob't s'v't,

HENRY A. WISE.

OAKLAND, Dec'r 11th, 1871.

MY DEAR SIR:

I received on yesterday your letters, dated November 28th, and December 1st, 1871, and post-marked December 8th.

I am at a loss to know what reply should be made to the proposition of Mr. Isaac D. Jones, for a meeting at Barnum's hotel, at "10 o'clock, A. M., on the 20th of this month." I have never been satisfied with the discourteous treatment we received at the hands of Mr. Jones and Mr. Waters, on our recent trip to Crisfield, and do not relish the idea of being summoned by him to "Barnum's hotel, at 10 o'clock, A. M., on the 20th," which it seems to me is a mere effort on his part to put himself in a better position before his own people and the legislature of Maryland, by making a *show* of an effort to adjust this boundary dispute. If such be the fact, I am not disposed to gratify him. It is an inconvenient period for me, at least, to leave home, and moreover I am already several hundred dollars out of pocket by reason of this commission, while the $5,000 appropriated is exhausted, and I am not disposed to make much farther investment in that line, unless there is some definite and tangible result to be obtained. If any such result will probably be attained by this "10 o'clock, A. M.," trip to Baltimore, then I suppose we ought to accept the proposition and go, otherwise I see no reason for the meeting. Mr. Jones's "ancient maps," can have no weight in settling this dispute, or against a parallel of latitude and a marked line made a hundred years ago by a joint commission of the two colonies of Virginia and Maryland, corresponding almost perfectly to the parallel. Why can't he bring his "ancient maps" to Richmond, where our maps and records are? I will only add, that I am not in the least disposed to accommodate Mr. Jones; but, nevertheless, if any definite and desirable result will probably be attained by the trip, I am willing to acquiesce, and this I leave you to determine, in so far as I am concerned. I would greatly prefer going to Richmond.

One other matter—ought we not to make a report to Governor Walker of what has been done so far in this business of the Maryland line, and also of the fact that no commissioners have been authorized or appointed on the part of North Carolina and Tennessee, so that *he* may submit our report to the general assembly, with such recommen-

dations as he may think proper to make? It seems to me that this is not only proper, but absolutely necessary, in view of the fact that the appropriation of $5,000 is expended, and we can do nothing farther without additional means, not even run and mark a boundary line, should we agree upon the true one.

Very truly yours,

WM. WATTS.

Gov. H. A. WISE,
Richmond, Va.

Copy.

WASHINGTON CITY, D. C.,
Decem. 13th, 1871.

Hon. H. A. WISE, &c., &c., &c.:

DEAR SIR:

Your prompt reply to my enquiry of the 8th was duly received, for which accept my thanks. The charts of the Chesapeake bay will be forwarded by next mail. Please retain the report made by the Maryland commissioner in 1860, which you now have, and I will send such additional copies as I may be able to obtain. There are none at the coast survey office.

The report of Col. McDonald is herewith returned.

The accompanying estimate is based on the supposition that the maps of Lieut. Michler, 17 in number, can be made available as a part of the record, but to what extent must depend upon the action and decision of the commission: It is believed, however, that the sum named will be sufficient for every possible contingency. The whole amount appropriated by Maryland for the last commission was about $16,000. How much by Virginia I do not know. It should be added, however, that a part of this appropriation was devoted to the surveys and marking of the western boundary of Maryland.

The coast survey will pay the salaries of the surveyors, provide the instruments, and also the tents, &c., should any be required.

I am, very respectfully,
Your ob't serv't,

RICH'D D. CUTTS,
Assist. in charge, &c.

Original filed with report.

Estimate.

Estimate of the expenses to be incurred in surveys preparatory to the final establishment of the boundary line between Virginia and Maryland on the eastern shore of the Chesapeake bay; in opening such portions of the line as the survey and marking may require; in the purchase and erection of suitable monuments; and in drawing such additional maps, including a descriptive memoirs of the position of each monument, as may be deemed necessary for the future security and identification of the line, $5,000.

Original filed with report.

RICHMOND, VA., Dec. 14th, 1871.

RICH'D D. CUTTS, ESQ., *Assist. in Charge, &c.:*

DEAR SIR:

Your two communications of 13th inst., returning McDonald's report, giving estimate of cost of preliminary survey, &c., and advising me of matters touching boundary between Maryland and Virginia, were received this morning, and I thank you for them.

I desire the complete chart of the Chesapeake bay by the coast survey, and will be grateful for any and all charts you may have to spare, touching the matter in my hands.

I am, with the wish for another chance at the oysters next spring,

Very respectfully and

Truly yours,

HENRY A. WISE.

RICHMOND, VA., Dec'r 13th, 1871.

DEAR SIR:

Since writing to you, I have seen Mr. DeJarnett in person. We concluded to wait until we could receive the reply of Col. Watts, and this morning I am in receipt of a note from him, dated the 11th inst., saying: It is an inconvenient season for me at least to leave home; and intimates that he cannot do so unless assured "of some definite and tangible result." He suggests Richmond, as the place preferred by him. I therefore submit to you and your colleagues, whether the joint commissioners cannot meet here in Richmond, sometime early in January next.

Yours, very truly,

HENRY A. WISE.

Hon. ISAAC D. JONES,
City of Baltimore.

RICHMOND, VA., Decem. 13th, 1871.

MY DEAR SIR:

Yours of 11th inst. reached me this morning. I have written to Mr. Jones, immediately informing him that you say "it is an inconvenient season for you to leave home," and that you cannot do so, unless assured of some definite and tangible result; and that you prefer Richmond as the place preferred by you. And I have submitted to him and his colleagues whether the joint commission cannot meet here, in Richmond, early in January next.

Mr. DeJarnette has prepared his report of his commission in England, and I have it in hand for review and correction. I have conferred with Gov. Walker about sending in our joint report. He desires it to be postponed until he can make it the subject of a special message. And I am of the opinion that it ought not to be made until after we have seen what the Maryland commissioners have to propose. I can prepare the report in a week, if necessary; but it would not be politic to reveal our grounds just now. I shall try to get an additional appropriation. The mission to England absorbed the larger portion of what was appropriated. I drew myself $1,050 and was not aware that Mr. DeJarnette had drawn more than about $2,500 until the auditor's account was shown me. Then there was a balance on hand of some four of five hundred dollars. I agree with you fully as to what must be done; but circumstances require a short postponement.

Very truly, yours,

HENRY A. WISE.

Col. WM. WATTS,
Big Lick, Va.

RICHMOND, VA., Dec'r 1st, 1871.

To his Excellency GILBERT C. WALKER,
Governor of Virginia:

SIR: In pursuance of your appointment of the undersigned, as commissioners on the part of this state, to meet and confer with commissioners on the part of the state of Maryland, to settle and adjust the boundary co-terminous to the two states, they have promptly and diligently proceeded to the discharge of their duty, and now submit a partial report.

After ascertaining the names and residences of the gentlemen appointed on the part of Maryland, the Hon. Isaac D. Jones, Wm. J. Aydelotte and Levin J. Waters, Esquires, the first residing in the city of Baltimore, and the other two on the Eastern shore of Maryland, the undersigned met and conferred as to the best time and place of holding a meeting of the joint commission.

At once they found that they were not prepared for holding a joint conference. The very valuable and indispensable report last made by the previous commissioner, Angus W. McDonald, Esq., could not be found, and of the nine volumes of the manuscript vouchers of his report, consisting of archives procured in England, at considerable cost and trouble, but three remained, and they are much mutilated, and all of his copies of his maps were missing. The leaves have been cut out, and in such a manner as to show evident design of destroying important evidence upon the question of boundary.

The undersigned could not prudently proceed without that evidence. If they met the Maryland commissioners they would be without the vouchers of title, and the absence of the proof would probably tend to cause a disagreement. If there should be an agreement, a permanent line would have to be run; and, if not, experimental lines, one or more, would be required to show the exact difference between the conflicting claims; and to run any line would have necessarily to be postponed until the season of spring.

In this state of the case, the undersigned requested your excellency to ask for an appropriation to send a commissioner to England, with a view to supply the lost files of the McDonald report, which was granted, and Mr. DeJarnette was sent, under instructions, of which you were fully informed.

In the meantime the other two commissioners have been assiduously employed in obtaining materials for the commission at home. They have succeeded in finding newly developed and important information from the records of counties, from the land office, from private papers, and from a close examination of the ancient statutes, and the best histories of the state.

By the time Mr. DeJarnette returned from England, much material was procured here. He was detained longer than he expected, but returned in good time for a meeting of the joint commission in the fall, and his report is before you.

It shows that his mission was not in vain, and that whilst he was not allowed to replace all the papers lost in the McDonald report, yet he obtained many of them and some of great importance which the McDonald report did not embrace.

Two of the undersigned being from the upper country preferred not to go on the work before frost set in, and, accordingly, after the return of Mr. DeJarnette, proposed to meet the commissioners of Maryland in the month of October last. Unfortunately, but one of them was able to make an appointment in the early part of that month, and the other two could owing to their engagements, make an appointment earlier than some time in November. But for special reasons, the undersigned determined to assemble at Crisfield, on the Eastern shore of Maryland, where two of her commissioners resided, in the month of October, and they gave notice thereof to Messrs. Jones, Waters and Aydelotte. The latter alone met the undersigned at the time and place appointed. This visit to Crisfield was important and not fruitless. Valuable statistics and local information were obtained, showing the importance of the boundary line on the eastern shore of the Chesapeake; and the localities of two monuments were found and identified, not only west of the Pocomoke river, but west of Watkins' point, at Smith's island in the Chesapeake bay and Tangier sound. Two of these monuments were visited by one commissioner from Maryland and one from Virginia, and the locality of another ascertained. Directions were given to have all these marked for the future.

All that the undersigned could do then, was to confer upon a report, and to await any further action on the part of the commissioners of Maryland. Since, these commissioners have requested a meeting of the joint commission at Baltimore in December, but at so early a day that the commissioners of Virginia could not be notified in time, and a further correspondence as to an appointment is now pending.

But, it is proper to observe, that, though the joint commission may meet and confer, they cannot do any field work, or run any line, experimental or permanent, before as late as the month of May next.

Several causes prevent the running of a line during either the winter or summer months. The line passes over large sheets of water on the bay and sea coasts, and requires calm and clear weather in which to run it; and it passes also over large bodies of both salt marsh and fresh water swamp, most accessible in spring or fall, when they are free of musquitoes and froudage, and when working parties may penetrate them with least danger to health, and can accomplish their work with most exactness and dispatch.

Two lines are essential to be run: first, the exact parallel of 38° N. latitude; and second, the line run by Scarbrough & Calvert, A. D. 1668, on which are numerous monuments. Accompanying this report, is a copy of a letter from Mr. Cutts, as superintendent of the coast survey, showing the probable expenses.

The whole or nearly all of the appropriation made by the last general assembly, ($5,000,) has been expended, by the necessary drafts made upon it by the commissioners during the year. The mission to England cost one half of that amount, and the advances required, individually, by the commissioners, have consumed the balance.

The undersigned cannot but urge the great importance of this settlement of boundary between Maryland and Virginia, embracing as it does riparian rights for the whole length of the Potomac river, and the oyster fisheries for a large portion of the Chesapeake bay, included in the Tangier and Pocomoke sounds, and their estuaries, creeks and bays; and liberal appropriation should be made to obtain the best researches and information, the most exact surveys, and the most durable monuments. Appropriation for the expense of permanent monuments, may well be postponed until a settlement is agreed upon by the joint commission, and approved by the respective legislatures of the two states; but Virginia should not neglect her interest in preserving whatever ancient marks and monuments remain, until a settlement is obtained.

The estimate of Mr. Cutts is for surveys and monuments only, other expenses will require as much more, say, in all $10,000.

The undersigned confine themselves, for the present, to this partial report, not entering, for obvious reasons, upon the question of the true line. They concur in their views, and are confident in their con-

victions upon that question, and have in their possession, and in their reach, such material and such data as will assuredly fortify the title of Virginia to her ancient bounds; but they submit, that it is not now prudent to present the history of the proofs of that title, or its location.

All which is respectfully reported for your consideration, and that of the general assembly.

HENRY A. WISE,
D. C. DEJARNETT,
WM. WATTS,
Commissioners.

CORRESPONDENCE

From January 1st, 1872, to January 1st, 1873, the time at which report of Commissioners was made to the Virginia Legislature, and statement of the case of Virginia sent to the Maryland Commissioners, including letter from Gov. H. A. Wise to Gov'r G. C. Walker.

RICHMOND, VA., Jan'y 5th, 1872.

Hon. ISAAC D. JONES:

DEAR SIR:

The commissioners of Virginia request you to inform them whether the commissioners of Maryland can meet them at Washington city, as early as Wednesday, the 17th of January instant? If not then and there, when and where will it suit their convenience to meet us at the earliest time?

Very truly and respectfully,

HENRY A. WISE.

BALTIMORE, Jan'y 12th, 1872.

Hon. H. A. WISE:

MY DEAR SIR:

I duly received yours of 5th inst. proposing a joint meeting of the boundary commissioners of Maryland and Virginia, on the 17th inst., and forthwith notified Messrs. Waters and Aydelotte to know if that day would be convenient to them, and if not if the 24th or 31st inst. would suit them. I have this morning received their reply

too late. I am sure for the 17th, but they both state that they will meet your commissioners (at Washington city if you prefer it) on the 24th or 31st inst.

Please inform me as early as practicable which of those days will best suit the convenience of the Virginia commissioners.

Very respectfully and
Truly yours,

ISAAC JONES.

Memo.

Received the above letter on the 13th. Wrote immediately to Messrs. DeJarnette and Watts to say whether they would accept appointment for either day; if so, for which? and so informed Mr. Jones.

H. A. W.

Jan'y 13th, 1872.

OAK LANDS, Jan'y 17th, 1872.

DEAR SIR:

I cannot go to Washington city on the 24th, but if agreeable to yourself and Mr. DeJarnette, will meet the Maryland commissioners at that place on the 31st as Mr. Jones proposes.

I do not consider them entitled to any courtesy at our hands, but think our duty requires us to meet them.

I see that Gov. Walker is corresponding with the governor of North Carolina. Why does he not do so with the governor of Tennessee? We are entitled to some territory from the latter state but not from the former.

Let me know what is determined on as to the meeting in Washington, and oblige

Very truly, yours,

WM. WATTS.

Gov. H. A. WISE,
Richmond, Va.

VIRGINIA STATE DOCUMENT
Public Documents
University of Virginia Library

Note.

The above letter of Col. Watts of 17th Jan'y mailed the 18th, was received on the 20th and answered at once, notifying him as well as Mr. DeJarnette, that I had written to Mr. Jones a letter of which I enclosed each a copy.

H. A. WISE.

The following is the letter referred to in above note:

RICHMOND, Jan'y 20, 1872.

MY DEAR SIR:

I am just now enabled to inform you that my colleagues and myself will with pleasure meet the commissioners from Maryland, in Washington city, at the Ebbitt house, at the hour of 12 M. on the 31st inst. I hope this is in time to notify your colleagues.

Very respect., &c.,

HENRY A. WISE.

Hon. ISAAC D. JONES, &c., &c.,
Baltimore.

OFFICE OF THE SEC'TY COMMONWEALTH OF VA.
RICHMOND, Jan'y 22, 1872.

Hon. H. A. WISE,
President Boundary Commission:

SIR:

As clerk, ex-officio, of the library committee, I am requested by Mr. Wynne, of the senate, who is a member of that committee, to communicate to you the following resolution of the senate, adopted *in secret session*, January 17th, 1872:

"*Resolved*, That all papers in reference to the boundary lines between the states of Maryland, North Carolina and Tennessee, and the state of Virginia, be referred to the committee on the library, with powers to send for persons and papers, and to have such of said docu-

ments copied or printed as the said committee may consider necessary, under the injunction of secresy."

Mr. Wynne is advised of the fact that certain papers and maps that were brought by Col. DeJarnette from England, are now in the custody of Gov. Walker, and that access to them is to be had through him; but he supposes that some of the books and documents referred to in Col. DeJ.'s report, remain in the hands of the commission, and it is in reference to them, and to obtain an inspection of them, that he desires this communication to be made to you.

I have the honor to be, sir,
With great respect,
Your ob't serv't,

JAS. McDONALD.
Secretary of the Commonwealth.

BALTIMORE, Jan'y 22d, 1872.

Hon. H. A. WISE:

MY DEAR SIR:

Your favor of 20th has this moment come to hand, and I have notified my colleagues of the proposed meeting at the Ebbitt house, Washington city, at 12 M., on the 31st inst. I have every reason to hope that the joint meeting will be held at the time and place mentioned in your letter.

Very respectfully and
Truly yours,

ISAAC D. JONES.

WASHINGTON, March 5th, 1872.

Hon. H. A. WISE, *Commissioner, &c.:*

DEAR SIR:

May I ask of you the favor to inform me whether the joint commission will call for any survey, during the coming spring, in con-

nection with the boundary line between Virginia and Maryland, on the Eastern shore of the Chesapeake; and if so, at what date it will be expected the work should commence.

This information is needed to give the surveyor who will be specially detailed for the field duty, to close up his operations at the south and to make arrangements for the survey or marking which may be decided on by the commissioners.

I am, very respectfully, y'rs, &c.,

RICH'D D. CUTTS,
Assist. U. S. C. S'y.

Note by Gen'l Wise.

Answered March 6th; April fixed for conference; May for survey of line. If joint commission don't agree upon line, commissioners of Virginia will need a detail of survey of line claimed by them.

H. A. WISE.

SPRING GROVE,
CAROLINE, March 12th, 1872.

To Gen. H. A. WISE:

DEAR SIR: I see from the report of the finance committee, that no estimate is made for the boundary commission. Unless you can give this subject your attention, by appearing before the committee, or seeing the governor, and get him to recommend an appropriation, which he would do, I doubt not, if you would state to him our appointed meeting, with every probability of a satisfactory adjustment, he will recognize the necessity of finishing the work.

I see that there are those in the senate who do not intend that my report shall be printed. Will you please give this matter your attention, as I am prevented by sickness in my family.

Respectfully, &c., &c.,

D. C. DEJARNETTE.

Note by Gen. Wise.—The foregoing answered the 16th, that the matter had been attended to, and will be.

H. A. WISE.

The commissioners of the two states having met at Washington City, according to appointment, at the Ebbitt House, on the 31st day of January, 1872, and having held a conference, they adjourned to meet at Annapolis, on some day in April, afterwards to be agreed on. When the following correspondence ensued:

RICHMOND, VA., April 16th, 1872.

Hon. I. D. JONES:

MY DEAR SIR: Is it not time that the commissioners of Maryland and Virginia were naming the day (to be this month) when they are to meet at Annapolis, as understood when they separated?

Will you please notify me of the wishes of yourself and colleagues, so that I can communicate a little beforehand with my colleagues.

Yours, truly,

HENRY A. WISE.

BALTIMORE, April 17, 1872.

Hon. HENRY A. WISE:

MY DEAR SIR: Yours of 16th inst., is just received. I will notify my colleagues of your proposal, to meet at Annapolis on some day this month. I saw Mr. Waters a few days ago, and learned that he will be ready on any day after this week. I doubt not Mr. Aydelotte will also be ready. If you and your colleagues will notify me of the day on which it will suit you to arrive at Annapolis, I will notify my colleagues. It will be more convenient for them to come up in the steamer on Mondays, arriving here early on Tuesday morning.

If you can reach Washington on Monday, the 29th inst., so as to take the early train for Annapolis on Tuesday morning, 30th inst., I think that will suit the Maryland commissioners. I have an engagement to try a case in the land office in Annapolis, on May 1st, but hope it will not occupy much time.

I had a letter from Mr. Cutts, of the United States coast survey, early in March, enquiring when we would need a surveyor, &c. I replied that I could not answer until the legislature had passed the bill then pending, and the commissioners of the two states could confer.

Whatever surveys may be needed, ought to be made as early as practicable; and if we can obtain the necessary force from the office of the United States coast survey, perhaps it will be most convenient to go from Annapolis or this city to Crisfield, and put the surveying party to work.

I do not think the Maryland commissioners will require any surveys, except of the shores, bars and islands of Tangier sound. But we have had no conference upon the subject.

Very truly yours,

ISAAC D. JONES.

Memo.

The foregoing letter of Hon. I. D. Jones, was received 18th April. April 19th wrote to Messrs. DeJarnette and Watts, asking whether the time proposed suited them; and, if not, what day will.

H. A. W.

BIG LICK, April 21st, 1872.

MY DEAR SIR:

Yours of 19th ulto. is just rec'd. I am aware of nothing at this time which will prevent me from being in Annapolis on the 30th, Tuesday. It will probably suit me as well as any other time, and at any rate I do not wish to delay the adjustment of the boundary question.

If I cannot attend the meeting, Mr. DeJarnette and yourself had better proceed with the business.

Had you not better carry your documents and proofs with you? I mean those upon which we rely, not the maps of extraneous matter.

Most respectfully and truly,

WM. WATTS.

To Gov. H. A. WISE.

Note.

The foregoing letter of Col. Watts was received April 23d. Mr. DeJarnette being present and informing me that he could not attend on Tuesday, 30th inst., we fixed upon Tuesday, the 7th of May next, and I immediately notified Col. Watts and Hon. I. D. Jones, and shall await the reply of the latter.

H. A. WISE.

April 23d, 1872.

BALTIMORE, April 25th, 1872.

Gen'l H. A. WISE:

MY DEAR SIR:

Yours of 23d inst. has been received. I will notify my collegues that Tuesday, 7th May is fixed upon for the meeting of the boundary commissioners at Annapolis.

I think there is no doubt that day will suit their convenience, and you may notify your colleagues accordingly.

Very truly, yours,

ISAAC D. JONES.

BALTIMORE, May 3d, 1872.

Gen'l H. A. WISE:

MY DEAR SIR:

I have this moment received a reply from Mr. Aydelotte to my note informing him of the appointment to meet at Annapolis on Tuesday next, 7th inst. I saw Mr. Waters in person a few days ago, they both promised to be in attendance on the day named. There will be no difficulty in obtaining comfortable rooms, and a room for conference at the Maryland hotel for the accommodation of the commissioners. I will try and have them ready for us on our arrival on Tuesday morning. Anticipating the pleasure of meeting you on the day named,

I remain yours, very truly,

ISAAC D. JONES.

Telegram.

WASHINGTON, May 7th, 1872.

Delayed this morning by change of hours for trains leaving. Will meet you by first train leaving. Answer what time commissioners will meet.

D. C. DEJARNETTE,
Nat. Hotel.

STEAMER TREDAGER,
ONANCOCK, May 30th, 1872.

MY DEAR GEN'L:

My engineer reports that we have not coal sufficient to go to Crisfield, and to take us to Norfolk. I am, therefore, sorry that I cannot put the steamer at the service of the boundary commissioners.

I shall start for Norfolk to-morrow. I wish you were along with me. Y'rs truly,

O. A. BROWN.

To Gen'l H. A. WISE,
Crisfield, Md.

CRISFIELD, June 2d, 1872.

His Excellency GILBERT C. WALKER,
Governor of the State of Virginia:

SIR: The joint commission on the boundary of the states of Virginia and Maryland, have been engaged in conference and investigation at Annapolis, at this place, and at Smith's island in the Chesapeake bay, for several weeks, and are continuing their work on the *Eastern shore* line, here, and at Smith's island, and propose to proceed next eastward to the Pocomoke, Swanseacute and Assateague islands, to the ocean.

We, the commissioners of Virginia, have found very important records at Annapolis and at Princess Ann, the county seat of Somerset county, Maryland, and more important stone monuments, no less than *four* large and obviously memorial marks, on Smith's island, three of which are precisely, we think, on the line of 38° N. latitude, but we can ascertain nothing accurately as to course and distance without the necessary scientific survey. We will need such survey still more between James' island point and the Pocomoke river, and between Swanseacute creek and the ocean, the line between Swanseacote creek and the Pocomoke river being already sufficiently marked of old, and by Michler, to inform us of every essential point, wanting only to be a little more permanently marked. We therefore unite in

requesting you to authorize us to procure the assistance of the office of the coast survey of the United States, through Mr. Richard Cutts, assistant superintendent, and to draw on you for the expenses of the survey to be paid out of the contingent fund. The commissioners of Maryland will, we fear, decline to pay any portion of the expenses, but it is, we deem, necessary and indispensable to be incurred on the part of Virginia, and will be very valuable, in any event of agreement or disagreement, in determining a line by the joint commission. The whole course of the Maryland commissioners indicates delay and disagreement. We have taken a large mass of depositions, some sixty manuscript pages, and are happy to say that they are most favorable to the claim of Virginia, and shows a state of things in this part of the waters of the two states, which needs a prompt and decisive remedy. We, therefore, depute Mr. DeJarnette to take this letter to you, and to proceed, with your authority, to Mr. Cutts, at Washington. He will relate to you the particulars of our proceedings.

I have the honor to be,
Your excellency's ob't serv't,

H. A. WISE.

By order of the commissioners of Virginia.

Telegram.

RICHMOND, VA., June 4th, 1872.

Hon. HENRY A. WISE:

After reviewing action of legislature last session, governor does not feel authorized to pay expenses from contingent fund. Telegraph what I must do.

D. C. DEJARNETTE.

U. S. COAST SURVEY OFFICE,
WASHINGTON, June 20, 1872.

Gov. H. A. WISE,
Virginia Boundary Commissioner, etc., etc., etc.,
Richmond, Va.

DEAR SIR: I am informed that the commissioners of the Maryland and Virginia boundary, are now ready to have the line surveyed. I am authorized to inform you that a coast survey officer will be detailed immediately for the purpose, on an official request being made.

Very respectfully,
C. S. PEIRCE,
Assistant in charge of Office.

JUNE 21.—*Answered.*

1st. Not ready for survey, and probably will not be before September next.

H. A. WISE.

RICHMOND, VA., August 22d, 1872.

Hon. I. D. JONES:

MY DEAR SIR: I have just been retained in a capital case of homicide, to come on September 2d, in Gloucester county, Va.; and other engagements, will prevent me from meeting the boundary commissioners on the 3d of that month. I would like to have a postponement to Tuesday, September 17th. What say you?

I will notify my colleagues, and you can notify yours, according to your appointment, of which I beg you to inform me at your earliest convenience.

* * * * *

Yours, very truly,
HENRY A. WISE.

BALTIMORE, Aug. 22, 1872.

Hon. H. A. WISE:

MY DEAR SIR:

Yours of yesterday just to hand, and I assume to speak for my colleagues and self, and to agree to your request, to postpone the meeting of the boundary line commission from the 3d to the 17th Sept'm. I will immediately notify my colleagues that I have *consented,* and am sure it will meet their approbation.

* * * * *

Very truly yours,

ISAAC D. JONES.

Note by Gov. Wise.

Aug. 24th, 1872, notified Messrs. Watts and DeJarnette.

WARM SPRINGS,
BATH Co., Aug. 21, 1872.

MY DEAR SIR:

I do not recollect certainly whether we are to meet the Maryland boundary commissioners on the 1st Tuesday or the 2d Tuesday in Sept'm. Will you be kind enough to inform me? Direct your reply to this place where I will be for a week longer. The 2d Tuesday would suit me best, but I will try and conform to our agreement, whatever it was.

Very respectfully and
Truly yours,

WM. WATTS.

RICHMOND, August 26th, 1872.

MY DEAR SIR:

The historical register of Virginia contains an extract which is very valuable to the commissioners on the boundary between Virginia and Maryland. It is from a paper written by L. W. Tazewell, Esq., for you, then in congress, entitled: "Notes as to the limits of Virginia." Have you now the original paper in full? If not, where can it or a copy be procured? Please assist me in getting this valuable paper. It is very important, and I beg you to furnish me with it.

Very truly and respectfully yours,

HENRY A. WISE.

Hon. E. W. HUBBARD.

SARATOGA, Sept. 6th, 1872.

Hon. H. A. WISE:

MY DEAR SIR: Your letter, asking me whether I had the "*original*" paper written by Mr. Tazewell for me, in support of the "right and title of Virginia to the land west of the Ohio, ceded by Virginia to the United States in 1784?"

Having solicited the aid of Mr. Tazewell and Mr. B. W. Leigh, to aid me in vindicating the right and title of Virginia to the land ceded the United States government, which had not only been assailed, but *denied* by Hon. H. Hall of Vermont, in one or two most villianous reports—one, a SELECT committee of five members, composed of Messrs. Goode and Goggin of Virginia, and Stanley of North Carolina, Cave Johnston of Tennessee, and H. Hall. The legislature of Virginia, nevertheless, again appealed to congress in behalf of our revolutionary bounty claimants, asking congress to pay the claims *outstanding*, many being among the best claims: for instance, Governor Nelson's and others.

* * * * * *

These resolutions from our legislature, were referred to the committee on public lands. When taken up by the chairman of the com-

mittee, he, in a contemptuous and sneering manner, held the resolutions up, and asked what member of the committee would *venture*, after the crushing and damaging report of Mr. Hall, to again recommend to congress to pay those claims. Each member *declined*, and he appealed to me—of course I could not, so undertook the task, and decided to do all I could in behalf of the state, her citizens, her honor and rights. Being, as you know, a farmer, &c., I ventured to invoke the aid of two of our greatest men.

The report has been greatly sought after and complimented, and I learn, *after* I left congress, a bill was passed paying these outstanding claims. I only state what I heard after I left public life.

* * * * * *

Tazewell's portion commenced on page 3, and closed at page 21.
Leigh's commenced at the close of page 21, and closed at page 29.

Yours, truly,

E. W. HUBBARD.

WARM SPRINGS,
BATH Co., August 26th, 1872.

MY DEAR SIR:

I received your letter yesterday. My courts commence on the 10th Sept'm, and although I am not pursuing the law actively, yet I have on hand some business which I must attend to. I cannot, therefore, be in Baltimore on the 17th Sept'm. Cannot our meeting be postponed to the last of the month, or to some day early in October, or to the latter part of that month? It seems to me that our business ought to be brought practically to an end at our next meeting, and we ought to have full time for consultation, and any field work it may be necessary to do. I believe that a competent engineer, with the assistance of the old deeds we have, and the local knowledge of the inhabitants can ascertain the divisional line on Smith's island, and when that is done it is of course terminates the controversy. I think we ought at least to make the effort and provide sufficient time at our next meeting to make it—my plan would be to Baltimore in October, from there to Crisfield—and then either *agree* or *disagree*. I make these suggestions for your consideration.

Very truly yours,

WM. WATTS.

Gov. H. A. WISE,
Richmond, Va.

P. S. to the foregoing letter of Col. Watts.

* * * * *

Note by Gov. Wise.

Answered August 28th. Appoint early. Will Tuesday, the 1st Octo., do?

H. A. W.

SPRING GROVE,
CAROLINE, VA., August 27th, 1872.

To Gov. HENRY A. WISE:

DEAR SIR:

Not being present when our last meeting in Maryland adjourned, and not being informed of the time and place of our next meeting, I write, requesting you to give me that information.

Very respectfully, y'rs, &c.,

D. C. DEJARNETTE.

Note by Gov. Wise on above letter.

Answered 29th, saying that the 3d Sept. as the time and Baltimore as the place were named. But I proposed to Mr. Jones the 17th Sep. He agreed but Col. Watts declined. What day would Mr. DeJarnette propose?

H. A. W.

WARM SPRINGS, Aug. 30th, 1872.

MY DEAR SIR:

Your letter just received. I will meet you on the 1st October in Baltimore, or at any other point without fail. That time suits me better than any other, and I hope we will be able to finish our work in some way.

* * * * *

Very truly yours,

WM. WATTS.

Gov. H. A. WISE,
Richmond, Va.

Note by Gov. Wise on foregoing letter of Col. W.

Replied to Sept. 13th, 1872, saying the 1st Oct. is the day. Also notified Hon. I. D. Jones, and requested him to notify his colleagues, and also notified Hon. D. C. DeJarnette.

H. A. WISE.

BALTIMORE, Sept'r 26, 1872.

Gen'l H. A. WISE:

MY DEAR SIR: I found yours of the 22d inst., awaiting my return from the Eastern shore, on yesterday. I have spoken to Col. Dorsey, of Barnum's hotel, who has promised me to furnish you a comfortable room, and also will provide comfortable accommodations for your colleagues, if they will stop with him.

Our meeting will be at the same time with the meeting of the State Agricultural Fair, so I requested him to reserve rooms for you and your colleagues until the 1st October, which he promised to do.

Very truly yours,

ISAAC D. JONES.

RICHMOND, VA., Sept. 28th, 1872.

To his Excellency G. C. WALKER,
Governor of Virginia:

When I entered upon the duties of a commissioner on the part of Virginia, to settle and adjust the boundaries between her and the state of Maryland, I found that the valuable papers which were obtained by Col. Ang. McDonald, in England, relating to the said boundaries, and which were contained in *nine* quarto-folios of manuscript, were mutilated and missing. Three of the volumes which were found were mutilated, and none of the other six could *then* be found. Over a year ago, and before Mr. DeJarnette was sent to England, my colleagues and myself were informed that Mr. Thomas Wynne, of this city, had one of the missing volumes, and Mr. DeJarnette went immediately to him, with the request of the commissioners that he would allow them the use of it for the state's purposes. The answer was, that he had it in his possession, but the use of it was not obtainable by the commissioners. Lately, Mr. Wynne admitted to me in person that he has *four* of these missing volumes. I requested him to let me examine them, and his reply was, that he would return them to the state library, and there I could get access to them. He has not, so far as I am informed, returned them to the library, nor to the executive archives, if they belong there; and on Tuesday, the first proximo, the commissioners of the two states are to meet in Baltimore, to hold, perhaps, a final conference, and to state the respective claims of their states. I have again and again called attention to this matter, and failed to get access to these missing papers.

If Mr. Wynne had furnished these volumes when first applied to for one of them, they could probably have removed the necessity of sending to England after copies; but he never, until within the last few weeks, informed me that he had four volumes of them instead of one; and though he was on one of the committees of the senate last winter, touching these boundaries, he never disclosed to the boundary commissioners of the state that he had these missing state papers in his possession, and has withheld whatever information they contained ever since. They are very important, and should be reclaimed. They are *manuscript records*, and ought never to have been permitted to be taken out of the library, or out of the executive files. As to how

they shall be reclaimed, and when returned, I most respectfully submit to your excellency. I inform you of these facts in discharge simply of my public duty.

I am, most respectfully,
Your ob't s'v't,

HENRY A. WISE,
For the commissioners on the part of Va.

This letter, written to-day, Sept. 28th, 1872, at about the hour of 11 o'clock, A. M., was not sent to the governor owing to the fact that within the hour or half hour after it was written and read to James Neeson, Esq., who was advised with as a friend about the matter, Mr. Thomas Wynne came into my office (Mr. Keiley, the mayor of Richmond, having just entered before Mr. Wynne) bringing with him a bundle. In a few moments Mr. Neeson, Mayor Keiley and Mr. Wynne left together, and in 15 or 20 minutes Mr. Wynne returned, whilst Judge Guigon and myself were looking over the papers contained in the bundle brought in by Mr. Wynne. One was vol. 5 of the McDonald papers, slightly cut in the leaves next both backs; the other was a package of the same McDonald papers, which seemed to be in size another volume thereof, but it was without binding, and there was no number of the volume on it. I told Mr. Wynne he had very recently informed me that he had four vols. of these manuscripts. He admitted that he had so told me but he had made a mistake, that he had but these two.

I asked him when he got them, he replied last January. I told him that must be a mistake, for I knew that Wm. Green, Esq., had one of these at least 18 months ago, and that Mr. Green's notes were in the book on many pages. He said he had loaned it to Mr. Green, and then added that he got it out of the library during the war. I reminded him that Mr. DeJarnette and John S. Wise had called on him for any of the McDonald papers more than a year ago, and he admitted that they had, and that he had one of them. I asked him if it was so mutilated when he got it from the library. He said no, the backs were taken off one of these volumes for Mr. Wynne to have it printed. He asked me to receipt for the vols. I declined as I desired the proper authority to vouch for their condition when put into my

hands. He said that he had the backs taken off at his own risk and without authority, and took the books away with him, saying as he went that he would return them to the library on Monday next.

H. A. WISE.

RICHMOND, VA., Oct. 19th, 1872.

Hon. HENRY A. WISE,

Ch'rm'n Commission on Boundary Line, &c., &c., &c.:

DEAR SIR:

The senate of Virginia, at its last session, made an appropriation for the printing of such of the papers brought from England by Mr. DeJarnette, and of the McDonald papers also, as the commissioners on the boundary lines would allow the committee on the library to have printed.

On behalf of this committee, I write to request that you will allow the papers in the first volume of the McDonald papers to be printed. The first paper in it is an account of the proceedings of the house of burgesses which met at Jamestown, in 1619. The second is "a list of the names of the living and dead in the colony of Virginia in 1623," and all the rest are of a character to throw light upon the condition of the colony during the period between 1619 and 1629. All of them are written and relate only to matters that transpired before the colony of Maryland was known or heard of, and therefore cannot relate to any subject which, if made public, could effect the question of boundary. The committee propose to print only a limited number, say 500 copies, for the use of members of the legislature, and others who are interested in the —— of our state, and I hope you will make no objection to allowing this to be done.

With high respect, y'rs, &c.,

THOS. H. WYNNE,
For the library committee.

RICHMOND, VA., Oct. 20th, 1872.

THO'S H. WYNNE, Esq.:

DEAR SIR: As I told you in our last personal interview, respecting the papers relating to the boundary question between Maryland and Virginia, I must decline to take any responsibility whatever for the printing of those papers. Up to a very late period, as you know, I have had access to but three of the manuscript volumes of the McDonald papers. I have never been offered the opportunity of examining the first volume of them. I am told that volume in your possession has been returned since I saw it in your hands, and that it is in the state library now. I shall call for it to-morrow. My colleagues on the boundary commission are not here, and without them I can give no consent to publish. But a short time will elapse before our report is made, and nothing can be lost by delay until we see whether the commission will agree, and the state will consent, to a publication.

I assure you this declining to assent on my part is not captious. I don't hesitate to say to you, as I did from the beginning, the boundary commissioners ought to have access to the McDonald papers before any are published.

Very truly and respectfully yours,

HENRY A. WISE.

PRINCESS ANN, MD., Oct. 28, '72.

Hon. HENRY A. WISE:

DEAR SIR:

Enclosed you will find the copies ordered in yours of 22d inst. I hope you will find that I have understood you correctly, and the copies are what you want.

I would have caused them to have been made and forwarded you last week, but we were all engaged in our court which was in session.

I also enclose the bill for copies heretofore made by your order. This you can attend to when convenient.

Heartily reciprocating the wish that the members of the joint commission "may all be well and meet on the 7th prox., with a mind to settle all differences," I subscribe myself,

Very respectfully, yours, &c.,

LEVEN L. WATERS.

* * * * *

BIG LICK, Nov. 24th, 1872.

MY DEAR SIR:

I will be in Richmond on the evening of the 27th or 28th. Was detained by sickness from the last meeting.

Very truly yours,

W. WATTS.

Gov. H. A. WISE,
Richmond, Va.

Telegrams.

SEPTEMBER 25th, 1872.

To Gen. HENRY A. WISE:

I will meet you punctually at Barnum's.

WM. WATTS.

BALTIMORE, Nov. 5th, 1872.

To Hon. HENRY A. WISE:

Please make arrangements—will probably leave Monday night.

ISAAC D. JONES.

MILFORD, VA., Nov. 7th, 1872.

To Hon. H. A. WISE:

We are here on our way. Mr. Waters along.

ISAAC D. JONES.

BALTIMORE, Nov. 6th, 1872.

To Hon. H. A. WISE:

Leave this four P. M., steamer, for York river.

ISAAC D. JONES.

RICHMOND, VA., Nov. 30th, 1872.

MY DEAR SIR:

Nothing could have been more mortifying to me than to be called away, as I was, imperatively beyond my power of arrangement or control, when you and your colleagues came to Richmond. I tried my utmost to get back here in time to see you, and pay you the attention which I desired to show you in Richmond and the surrounding country. When I returned, I did not wonder that you had left, as illness had prevented my colleague, Col. Watts, from attending.

My expectation was, that with my two colleagues you might read the statement on the part of Virginia, and confer on any proposed plan of adjustment.

I regretted very much that you and your colleagues had to return without making any progress towards a conclusion. Since my return I have pressed the copying of the statement on the part of Virginia, but having to prepare one for you, and one for the executive of Virginia, it has been delayed until now. I forward it now by express, directed to your address. I have hurried its preparation so much that the copy has not been carefully corrected. I beg you will allow much for the want of verbal correction.

I hope you will confer as early as convenient with your colleagues, and let me know ten days beforehand, when you can meet us here;

I say *here*, for I will not be content until we can have you here, assembled with us, to prove that we meant to be punctual to appointment, and desire cordially and sincerely to welcome you all three as cherished guests.

Please acknowledge receipt of statement.

Yours, very truly,

HENRY A. WISE.

Hon. ISAAC D. JONES,
Commissioner, &c., &c.

BALTIMORE, Decem. 4th, 1872.

Hon. H. A. WISE:

MY DEAR SIR:

I have received your favor of 30th ulto., and also the statement of the Virginia case. My colleagues and myself greatly regretted your absence from Richmond while we were there, but fully appreciated the necessity which caused it.

I find by your letter that our apprehension of Col. Watts's illness were well founded.

As early as practicable, I will confer with my colleagues upon the Virginia statement. If your statement as you suppose, shall need allowance for want of verbal correction, by reason of hurried preparation, ours will need the same indulgence.

An error has occurred to me in the criticism of Mr. Tomlin's translation of certain latin words. The word "cum" should be "id," referring to "flumen," which is neater, and is "flumen" in the accusative case, and not '*fluminum*,' as I think it is in the manuscript. You will oblige me by correcting those words if you find I have made the error as supposed.

I am sure it would afford me very great pleasure to meet you and your colleagues at Richmond. We thank you heartily for your cordial and earnest invitation. But I fear we will find it difficult to accept it within the next two months, my engagements occupying me until after the first week in Jan'y. Summerset court will meet and occupy Mr. Waters for a week or more. But I will confer with my colleagues upon this subject when we meet.

Very truly, yours,

Signed, ISAAC D. JONES.

BALTIMORE, October 21st, 1872.

DEAR SIR:

Yours of the 19th instant, is just received. In reply, I would state that the steamer "Maggie" leaves the foot of South street for Onancock, every Tuesday and Friday evening, at 5 o'clock. The "Helen" leaves the same wharf for Pungoteague, at the same hour, on Sundays and Wednesdays. The order of the Somerset county court, about which I spoke to Baxly Browne, and to which you probably refer, was one passed in the year 1667, I think; and laying off the course and direction for the old county road. In this order, "Watkins' point," was named as determining the course.

Another order, passed about the same time, and laying off "Annamessex hundred," under the old system of county subdivision, also mentions "Watkins' point," as one of the boundaries of said hundred. This is my recollection about the matter, and I am quite sure the statement of these main facts is substantially correct, although I have not looked at either of the orders for some years. You can easily find them by a reference to the record book of that period, although I am not sure that they will be of any assistance in locating, with sufficient definiteness for your purpose, Watkins' point.

With great respect,
I am very truly yours,

J. UPSHUR DENNIS.

Hon. HENRY A. WISE,
Richmond, Va.

RICHMOND, VA., Oct. 27th, 1873.

Hon. I. D. JONES:

DEAR SIR: Some months ago, I wrote to you requesting to be informed when and where the commissioners on the part of Maryland, would meet those on the part of Virginia, to make a further attempt to settle and adjust the boundary between the two states, and as yet have received no reply. Will you please inform me, at your earliest convenience.

We can probably meet you at Baltimore whenever you will appoint.

Yours truly,

HENRY A. WISE.

After 1st November, address me at Accomack courthouse, until after the 15th of same month.

BALTIMORE, October 28th, 1873.

Hon. HENRY A. WISE:

MY DEAR SIR:

Your favor of the 27th instant is this moment received. The letter you mention as having been written to me, some months ago, requesting to be informed when and where the commissioners on the part of Maryland would meet those of Virginia, to make a further attempt to settle and adjust the boundary between the two states, has not been received. I have had no letter from you since the 3d Dec'r, 1872, at which time I received the "statement and claim of the Virginia commissioners respecting the boundary line in question.

In my letter acknowledging the receipt of yours with the "statement," I replied that I would submit the statement to my colleagues as early as practicable, and would inform you the result of our deliberations upon it. We met and carefully considered the whole matter and I was requested to communicate to you the result. A variety of intervening causes have delayed my compliance with this request, but

for some time past, I have been devoting to the subject all the time I could command from other indispensable engagements.

I am gratified to learn from your letter that you and your colleagues can probably meet us in Baltimore at any time we may appoint.

I do not wait to consult my colleagues, but in reliance upon their concurrence, will name Tuesday, the 18th Nov'r, at Barnum's hotel, in this city, when and where we will be glad to meet the Virginia commissioners.

Please confer with your colleagues and inform me if this time and place will suit their convenience. I will immediately notify Messrs. Waters and Aydelotte, and hope the appointment I have ventured to make will suit them. *If it should not,* I will address you as requested.

Very truly, yours,

ISAAC D. JONES.

Nov. 10th, 1873.

MY DEAR SIR:

I only received yours of the 29th Oct. to-day. Monday, the 17th Nov'r, is my court day, and to reach Baltimore the 18th Nov'r, I would have to leave here on Monday, and so miss my court, which, for special reasons, I desire to attend. The 20th Nov'r will suit me for the reasons stated far better than the 18th. If, however, it is absolutely necessary I will lose the court, and be in Baltimore on the 18th, for I am, for many reasons, most anxious that we should come to some settlement of this boundary question.

Most truly yours,

WM. WATTS.

Governor WISE,
Richmond, Va.

PHILADELPHIA, Nov. 11th, 1873.

Gen. H. A. WISE:

DEAR SIR: Yours of the 5th instant, was forwarded to me at this place. I hope to be able to meet you at time and place named.

Respectfully yours, &c., &c.,

D. C. DEJARNETTE.

PHILADELPHIA, Nov. 15th, 1873.

Gen. H. A. WISE:

DEAR SIR: I find that I cannot meet you on the 18th inst., in Baltimore, as proposed, but will be able to meet you at Baltimore, on the 25th inst.

Hoping that this will not subject you or our associates on the commission to any inconvenience, and that I may hear from you soon,

I am, sir,
Yours, most respectfully, &c.,

D. C. DEJARNETTE.

P. S.—Direct your letter to Bowling Green, Caroline county, Va.

D. C. DEJ.

OAKLAND, Nov. 16th, 1873.

MY DEAR SIR:

I received your postal card this morning. Business of *importance* requires my presence in Salem to-morrow, but I will be in Baltimore *Tuesday night*, without fail. This, I hope, will be in time for our business, though I should like very much to be present at the FIRST of the proceedings. Can't you *meet* and *adjourn* over to the next day, the 19th, when I will be present.

Very truly yours, &c.,

WM. WATTS.

Gov. H. A. WISE,
Baltimore.

RICHMOND, VA., Dec'r 18th, 1872.

To his Ex'lly GILBERT C. WALKER,
Gov'r of the State of Virginia:

SIR:

I am instructed by my colleagues on the boundary commission between the states of Maryland and Virginia, to report to you their proceedings since their last report, and to submit a statement on the part of each state, setting forth their respective claims of boundary.

Maryland claims to the south bank of the Potomac, to Smith's point; thence to Cedar straits, on the eastern shore of the Chesapeake bay; thence up the Pocomoke river, to where what is called the Calvert and Scarbrough line crosses that river; thence by said line to the Atlantic ocean.

Virginia claims to the north bank of the Potomac, to the extreme southern angle of Point lookout; thence by a right line to the extremest part of the westernmost angle of Watkins' point, at the north head-land of Little Annamessex river; and thence by the Calvert and Scarbrough line, to the Atlantic ocean, according to the line run in 1668, by the commissioners on the part of the two colonies, fully and

finally confirmed by both Lord Baltimore and the royal province of Virginia.

This difference of boundary embraces eminent domain of great value; and the commissioners of the two states are endeavoring to agree upon a fair and liberal compromise.

The joint commission met first at Annapolis, whence, they adjourned, after examining certain records there, to meet at Crisfield, on the line of the Eastern shore, near the central and closing point of the entire lines between the two states. There and at Smith's island, on the Tangier sound, they took the depositions of near thirty witnesses, touching the marks and trade of the lines, and they found a number of marks on Smith's island, because the natural head-land forming the extremest part of the westernmost angle of Watkins' point, west of the Pocomoke river.

After full conference and comparison of views, it was agreed that the commissioners of the two states should prepare statements of their respective claims and interchange them simultaneously, at their next joint meeting appointed to be in Baltimore, on the —— day of —— last. On assembling, the commissioners of Maryland read and furnished a copy of the statement on the part of Maryland. The statement on the part of Virginia was not completed, but was in part read and in part stated orally. After a full hearing of extreme claims and pretensions on both parts, various propositions of compromise and concession were reciprocally made and considered, and finally all questions were adjourned to another meeting at the city of Richmond, in November last, by which time the statement on the part of Virginia could be completed. The gentlemen of the Maryland commission came on, and, unfortunately, Mr. Wise, of the com'rs of Virginia, was suddenly called off, and Mr. Watts was too ill to attend, no joint meeting was, therefore, held, and all that could be done was to furnish the com'rs of Maryland with a copy of the statement on the part of Virginia. That has been duly forwarded to the Hon. I. D. Jones for himself and colleagues; and when they have sufficiently considered it, they will inform the com'rs of Virginia when and where another joint meeting can be held. Thus the settlement is not yet concluded, but a reasonable hope is confidently entertained that a satisfactory adjustment can and will be agreed on.

The accompanying papers discuss the whole matters of law and fact fully; and will, it is thought, satisfactorily explain the difficulty and delay of this work by its vast volume of history.

Paper "A" is the statement of the commissioners on the part of Maryland; it has no appendix of matter referred to.

Paper "B" is the statement of the commissioners on the part of Virginia.

Paper C is the appendix of paper "B," containing the more important matters referred to therein.

Since the last report two other manuscript vols. of the McDonald papers have been found, in addition to the 3 vols. found by the commissioners in the state library. There are now 5 of those vols.; several of them mutilated. The two lately recovered were handed in to the librarian of the state by Mr. Thomas Wynne of this city; but they were received by the commissioners not in time to be closely examined for the uses of their works though it is thought that they contain but little pertaining to the subject of boundaries between Maryland and Virginia. The more important evidences of Virginia's claim were to be found in the papers brought by Mr. DeJarnette from England, and they have been found richly worth all the cost and expenditure of sending for them. The Maryland archives respecting the Calvert and Scarbrough line of 1668 from Watkins' point to the ocean, aided by these papers, make the claim of Virginia certain and conclusive. The cost of sending to England consumed a large part of the appropriation, and that added to the pay of the commissioners has entirely exhausted them. The state is now in arrears to the commissioners as the auditor's accounts will show.

If the boundaries are settled by the joint commission, the line will have to be run and permanently marked by a detail of surveyors from the office of the United States coast survey. The cost of that, and the pay and arrears of pay of the commissioners will, it is estimated, require an additional appropriation of ten thousand dollars, ($10,000.) If not adjusted by the commissioners, most important interests of the state require that she shall resort to the Supreme Court of the United States. That will require at least the same amount of appropriation of $10,000 to begin with; and ten times that amount may well be expended to save the state's interest in the riparian rights of the Potomac river: in about fifty square miles of land on Smith's island, and south of Little Annamessex river, and north of the Pocomoke sound, on the main; and, in about 300 square miles of oyster beds in the Chesapeake bay, and in Tangier and Pocomoke sounds. During the past year, the town of Crisfield, exactly on the Calvert and Scarbrough line, at its terminus on the Little Annamessex, shucked

and shipped to the markets, mainly in the west, one million of gallons of oysters, costing at the places where sold an average of one dollar and eight cents per gallon, and bringing in the markets an average profit of 100 per cent. The place employs 250 vessels, 1,500 catchers, about the same number of openers and packers, has fifteen packing houses, and sells as many oysters in the shell as are sent to market opened. The trade at the mouth of Little Annamessex, in oysters, is worth from three to four millions of dollars per annum. Maryland, at present, derives more than four-fifths of its profits and revenue. The stakes in this boundary question, therefore, are worth, on the whole line in dispute, too many millions of dollars to be lightly relinquished, or to be neglected. Your commissioners have, therefore, taken full time for thorough and elaborate investigation, and their task has been immense, in references to history, to manuscripts, to state papers, to the laws of two states, to maps, reports, records, old patents and archives, until they have developed and embodied a mass of valuable history besides what pertains to the question of boundary, and much of its important matter is new. They, therefore, urge that your excellency will lay this report and accompanying papers before the general assembly, with the request of a liberal appropriation to meet either contingency: of amicable adjustment, or resort to the Supreme Court of the United States.

They retain the papers of the commission in their charge, with their journal, until they shall make a final report. All which is respectfully submitted.

I have the honor to be,
Your excellency's
Most ob't serv't,

HENRY A. WISE,
By order of Commissioners on the part of Virginia.

JOURNAL

OF THE

JOINT COMMISSION OF MARYLAND AND VIRGINIA.

The commissioners, by appointment, met at Annapolis; adjourned to meet at Crisfield; and thence adjourned to meet at Baltimore; and the following is the memorandum of their proceedings, at those places at the times named, and appended hereto are the depositions of witnesses taken as to the boundaries known to the inhabitants:

ANNAPOLIS, MD., May 8th, 1872.

The commissioners on the part of Maryland and Virginia, to-wit: Hons. Henry A. Wise, D. C. DeJarnette and William Watts, on the part of Virginia, and Isaac D. Jones, William J. Aydelotte and Levin L. Waters, on the part of Maryland, appointed by acts of assembly of their respective states, to adjust and settle the boundary lines between the two states, met pursuant to agreement, in this city, on yesterday, the 7th inst., and held an informal meeting for the interchange of views.

This morning the commission met again, and on motion of Mr. Aydelotte, was formally organized by electing the Hon. D. C. DeJarnette, chairman, and Levin L. Waters, as secretary.

The morning session of the commission was occupied in the reading of reports by the Virginia and Maryland commissioners to their respective legislatures, and in the reading by Gov. Wise of an argument by Mr. Tazewell, of Virginia, for the purpose of pressing the claims of Virginia to the north bank of the Potomac, as the true boundary between the two states, without concluding which the commission at 3 o'clock, P. M., took a recess for one hour to dine.

The commission re-assembled at 4 o'clock, P. M., and Gov. Wise resumed the reading of Mr. Tazewell's argument. This having been concluded, the commission was engaged in discussing the reports of Scarborough, Lee and Macdonald, and examining maps until a quarter before 7, at which hour the commission took a recess 'til 8 o'clock, P. M.

The commission re-assembled at 8 o'clock, and were engaged until the hour of adjournment in the investigation and discussion of maps, charts, &c. The commission at 11 o'clock, P. M., adjourned 'til tomorrow morning at 10 o'clock.

THURSDAY, May 9th, 1872.

The commission met this morning pursuant to adjournment.

Mr. Jones, on the part of the Maryland commissioners, offered the following:

"The Maryland commissioners respectfully request the commissioners of Virginia to furnish them at their convenience a written statement of the boundary line between that state and the state of Maryland, as claimed by them, with a statement of the facts, documents, maps and other evidence by which they claim the establishment of the said boundary in order that the Maryland commissioners may consider the same and reply thereto with a statement of the Maryland case and claim as understood by the Maryland commissioners."

This was rejected by the Virginia commissioners, and in lieu thereof Mr. Wise offered the following:

"The commissioners of Virginia and Maryland, to settle and adjust the boundaries between the two states, mutually and concurrently agree, that the commissioners of each state shall furnish the commissioners of the other state, at the earliest convenience of both, with a written statement of the location of boundaries claimed by each, referring to any documents, maps, or other evidence, by and under which either state claims, but not confining either party to the evidence so adduced, the object being to furnish only the statement of the claim on either side. Each shall state the location of claim on the Potomac, and each shall designate what it claims to be the true Watkins' point, or part of Watkins' point, on the Eastern shore, or what point is claimed to be the initial point of the line on the Eastern shore, with a reference to the evidence on which the claim rests." Which proposition was unanimously adopted.

The following resolution, offered by Mr. Jones, was adopted:

Resolved, That when the joint commission adjourn to-day, it shall adjourn to meet at Crisfield, on Wednesday morning, May the 22nd, inst.

On motion, the commission, at 2 o'clock, P. M., adjourned.

CRISFIELD, May 22nd, 1872.

Pursuant to adjournment at Annapolis, Commissioners Wise, Ayedelotte and Waters, met here this morning. Messrs. DeJarnette and Watts were detained by an accident to the steamer, and Mr. Jones, of the commission, was prevented attending by urgent business detaining him at Philadelphia.

CRISFIELD, May 23rd, 1872.

This morning, the commissioners having all assembled, the joint commission proceeded in the Maryland oyster police steamer Leila, to Smith's island, and visited a stone about three-fourths of a mile north of the residence of Johnson Evans, at Horse hammock, and ordered the same to be taken up for inspection. All the commissioners returned to Crisfield, except Governor Wise, who remained at the island from choice, to see to the removal of the said stone.

CRISFIELD, May 24th, 1872.

The joint commissioners left this place this morning in the Maryland steamer, and met Governor Wise on the Virginia steamer off Smith's island, who reported to the commissioners that he had caused the first stone north of Horse hammock to be taken up, and that it was lying on the marsh for their inspection, and that he had found two other stones within eighteen feet of each other in the same thoroughfare where the first was found, near half a mile from Troy island, and in about forty or fifty feet from the edge of the marsh at Beaver hammock, and showed on the coast survey chart where it was to be found. All the commissioners, except Governor Wise, proceeded to the stones. They found the first stone lying on the edge of the marsh

near its site. In attempting to break off a piece of it the stone was broken into two pieces, which were put together and replaced in the position from which it had been taken.

They also proceeded about two miles farther up the thoroughfare to the two stones described and marked by Gov. Wise, and found them as he had represented.

The commisioners at night returned to Crisfield.

SATURDAY MORNING, May 25th, '72.

Gov. Wise and Mr. Waters being required to go to Princess Anne, and Mr. Aydelott desiring to go home, the commission adjourned to meet at Crisfield on Monday morning next.

CRISFIELD, May 27th, 1872.

The commissioners, except Mr. Waters, who was detained at home, met this morning at the "Cove Hotel," in Crisfield, and proceeded to take the depositions of the following persons, to-wit: Isaac Sterling, McKenney Laws, Abraham Somers, John Cullen and Benjamin Lankford, and adjourned to meet at Horse Hammock, on Smith's island, the following day.

TUESDAY, May 28th, 1872.

The joint commission met pursuant to adjournment, and finding they had no one on Smith's island authorized to administer oaths, they returned to Crisfield to procure a justice of the peace, and adjourned to meet at the same place again the next day.

WEDNESDAY, May 29th, 1872.

Pursuant to adjournment the commissioners met and proceeded to examine other witnesses before Thomas K. Wrealton, a justice of the peace of Maryland, and took the depositions of the following witnesses: John Marshall, James T. Evans, David Tyler and Severn Bradshaw.

The commission adjourned to meet at Crisfield next morning.

THURSDAY, May 30th, 1872.

Pursuant to adjournment the commission met at the railroad office in Crisfield, and before the same justice of the peace took the depositions of William Sterling, Michael Somers, Hance Lawson, William Nelson and Thomas W. Dougherty. The commission then adjourned to meet at Horse Hammock next morning.

MAY 31st, 1872.

The joint commission met this morning, pursuant to adjournment, and before the same justice took the depositions of Francis Evans, Severn Bradshaw, Benjamin Bradshaw, Stephen T. Dize, Johnson Evans and John Tyler. The commissioners then returned to Crisfield, and adjourned to meet again at Crisfield, on Monday, the 3d of June.

CRISFIELD, MONDAY, June 2d, 1872.

The joint commission met this morning pursuant to adjournment.

Present: Messrs. Wise and Watts, on the part of Virginia, and Jones and Waters on the part of Maryland.

Absent: Messrs. DeJarnette and Aydelotte.

The commission proceeded to take the depositions of witnesses before Justice Whealton.

The deposition of the following witness was taken to-day: Henry Dize. And they also examined sundry patents, and adjourned to meet at Crisfield the next day.

CRISFIELD, TUESDAY, June 4th, 1872.

The joint commissioners met this day, at this place, pursuant to adjournment on yesterday.

Present: Hon. I. D. Jones, Wm. J. Aydelotte, Esq., Col. William Watts, and Henry A. Wise, Esq., who proceeded to take the depositions of the following witnesses: Edward Towls, Clement R. Sterling and John Spence; and other witnesses failing to appear, the commissioners proceeded in the examination of patents, and adjourned to meet at Smith's island the next day.

CRISFIELD, Md., June 5th, 1872.

The joint commissioners having adjourned on yesterday, to meet to-day on Smith's island, to visit two stones, one at the mouth of a creek, off "The Barrs," another on the west side of the island, off the shore of the upper part of Hog neck, but the wind being very high, and rendering the work impracticable on the island, they assembled to-day at this place.

Present: Hon. I. D. Jones, Wm. J. Aydelotte, Esq., Col. William Watts, and Henry A. Wise, Esq., and proceeded to read numerous patents of Virginia, for land at and near the divisional line of Virginia and Maryland, as therein called for, of which the following were read and noted, to wit:

And they also proceeded to take the depositions of the following witnesses: John W. Evans and Chas. W. Marsh. And thereupon adjourned to meet here at Crisfield to-morrow.

CRISFIELD, Md., June 6th, 1872.

Pursuant to adjournment, the commissioners met at this place this day, and read the journal, and read and compared sundry copies of papers; and according to an understanding on yesterday, when Mr. Aydelotte was present, they adjourned to meet at Baltimore, on Tuesday, the 3rd day of September next. And before adjournment it was unanimously ordered that John E. Mowbray be allowed ten dollars a day for his services as clerk to the commission, in writing depositions and copying papers.

BALTIMORE, Oct. 1st, 1872.

The joint commission assembled at this place to-day.

Present: Hon. I. D. Jones, Wm. J. Aydelotte, Esq., and L. L. Waters, Esq., on the part of Maryland; and Hon. D. C. DeJarnette and Henry A. Wise, Esq., on the part of Virginia. Col. Watts being absent, sick.

The commissioners having failed to meet according to their appointment at Crisfield, on the 2rd of Sept. ult., the meeting was post-

poned at the instance of Mr. Wise, and agreed to by the commissioners on the part of Maryland until the 17th ult.; and was postponed to this day. Upon assembling the commissioners adjourned until 10 o'clock, A. M. next day, awaiting the arrival of Col. Watts, who had telegraphed he would be here this day.

BALTIMORE, Oct. 2d, 1872.

The commission met to-day at Barnum's hotel. Absent: Colonel Watts.

In pursuance of their previous resolution, they proceeded to hear the statements of the claims respectively of the two states. Mr. Wise proceeded on the part of Virginia to state the claim of boundary made by that state and concluded; whereupon the commission adjourned to meet to-morrow at 10 o'clock, A. M., to hear the statement on the part of Maryland.

BALTIMORE, Oct. 3rd, 1872.

The commission met this morning pursuant to adjournment. Absent: Col. Watts.

Mr. Jones proceeded to read a written statement of the claims of Maryland, and after being partly heard Col. Watts arrived, when the commission paused for him to be informed of what had been done; and thereupon Mr. Jones continued his statement. Not having finished the statement when the hour of adjournment arrived, the commission adjourned until 10, A. M., to-morrow.

BALTIMORE, October 4th, 1872.

Pursuant to adjournment, the commission met to-day, all being present. Mr. Jones proceeded to conclude his statement on the part of Maryland, and submitted the following propositions of boundary, to wit:

"Beginning at low water mark, at the divisional line between the two states of West Virginia and Virginia, upon the south west coast or shore of the Potomac river; thence following the said river, at said low water mark, to all wharves and other improvements now

extending, or which may hereafter be extended, by authority of Virginia, from the Virginia shore, into the said river beyond low water mark; and following the said river around said wharves and other improvements, to low water mark on the southwestern side thereof; and following the said river, in the same manner, down to the easternmost angle of Smith's point, at the mouth of the said river Potomac, where it flows into the Chesapeake bay; thence by a right line to the centre of Cedar straits on Tangier sound, near the southern end of Watkins' point; and thence by a right line, in a southeasterly direction, to the channel of Pocomoke bay or river, nearest to Cedar straits; thence up, by and with the said channel of said bay and river, to a point thereon opposite to the place on the east shore of the said river, ascertained by Mr. De la Camp, in 1857, as the beginning on said shores of the divisional line, run and marked by Calvert and Scarbrough in 1668; and thence by and with said divisional line as surveyed and laid down on the map made by said De la Camp, for the joint commissioners of Maryland and Virginia in 1858, to the Atlantic ocean. The right of fishing and taking oysters in Pocomoke bay and river, to be common to the citizens of both states, subject to concurrent regulations by the two states."

Upon the reading of which said propositions, the commissioners on the part of Virginia took time to consider the same apart; and thereupon the commission adjourned until to-morrow at 10 o'clock, A. M.

BALTIMORE, Oct. 5th, 1872.

The commission met pursuant to adjournment; all present.

Mr. Wise, in behalf of the commissioners of Virginia, submitted the following propositions, to-wit:

Proposition First by Virginia.

"The commissioners of Virginia having met separately and considered the propositions submitted to them by the commissioners on the part of Maryland, most respectfully decline to accept the same; and in turn submit the following, to-wit:

"The northern boundary line of Virginia shall henceforth be fixed and established at low water mark on the left or northern shore or strand of the Potomac river, for the whole extent of that shore of

said river where it is co-terminus between the two states of Maryland and Virginia, to the extreme end of Point lookout, the northern headland of said river, where it disembogues into the Chesapeake bay; thence by a right line, across said bay and Smith's island therein, to the westernmost angle of Watkins' point, being the northern headland of Little Annamessex river; and thence by and with line run by Philip Calvert and Edmond Scarburg, in the year 1668, over the Pocomoke river and Swanseacute river or creek to the shore of the Atlantic ocean on Assateague island."

The commissioners on the part of Maryland having considered these propositions respectfully decline the same.

At this point the commission took a recess till 7 o'clock, P. M.

The commission assembled at 7 o'clock, P. M., when Mr. Jones, on the part of the Maryland commissioners, submitted a second compromise as follows, to-wit:

"The Maryland commissioners propose another and a second compromise of the boundary controversy between the two states, viz: Beginning at the point on the Potomac river described in their first offered compromise line, and thence to Smith's point as stated in their first offer; and thence by a line across Smith's island to the place on Jane's island bar, where the light house stands; thence by a right line to the centre of Cedar straits; and thence to the channel of Pocomoke bay; and thence up, by and with said channel of said bay and river, and by and with the Scarborough and Calvert line to the ocean, as described in their first offered compromise line."

The commissioner of Virginia informed the commissioners upon the part of Maryland that they most respectfully declined this second proposition; and thereupon the commissioners of Virginia made their second proposition, to-wit:

Proposition Second by Virginia.

"Proposition of boundary, offered by the commissioners on the part of Virginia, for and as a compromise line of boundary between the states of Maryland and Virginia:

"The line run by Philip Calvert and Edmund Scarburgh, in the year 1668, from the right bank of the Pocomoke river over the same and over Swanseacute creek or river, and over the bays and sounds and islands on the sea side of the peninsula formed by the Chesapeake bay and the Atlantic ocean, to the shores of said ocean on Assateague

island, straightened and corrected so as to make it a right line, shall be on that part of the boundary between the states of Maryland and Virginia, the divisional line between the said two states; and the same shall be fixed by permanent monuments, to be as early as possible erected by the said two states. Then, beginning at the terminus of said line on the right bank of the Pocomoke river, shall follow the said bank of that river down the same, to the eastern headland of East creek, at or near the head of Pocomoke sound, on the north side thereof, where a permanent monument shall be erected as aforesaid; thence by a right line, over the water, to the middle of the channel of Cedar straits; thence through said straits northwestwardly to a point due south from the western headland of said straits; thence to the low water mark of the shore of said headland, where a permanent monument shall be erected thereon; thence north to low water mark on the shore of the north headland of Little Annamessex river, where a permanent monument shall be erected thereon; thence to the point where the 38th degree of north latitude cuts across the Tangier sound and Smith's island, at or near Barnes's point thereon, and there a permanent monument shall be erected; thence along the shores of the north end of Smith's island at low water mark and Kidge's straits, until it reaches the shore of that island on the Chesapeake bay; thence following said shore, at low water mark, until it reaches the said parallel of 38° N. L., at or near the great thoroughfare of Smith's island, where a permanent monument shall be erected; and thence to run on said parallel to the point where the said parallel is cut by a meridianal line drawn through the extreme southern angle of Point lookout, at the mouth of the Potomac river; and thence up that river, on the main channel thereof, to the point in that river, at and opposite to where the divisional line between Virginia and West Virginia touches the said river Potomac."

The Maryland commissioners considered, and most respectfully declined, this proposition. And thereupon the commissioners on the part of Virginia, by way of compromise, proposed to the commissioners on the part of Maryland, the following, to-wit:

Proposition Third, by the Commissioners of Virginia.

"The commissioners on the part of Virginia, by way of compromise, propose to the commissioners on the part of Maryland: That the line between these two states shall run by and with the main chan-

nel of the Potomac river, until it descends to the point where the meridianal line, drawn through the extreme southeastern angle of Point lookout, the north headland of the mouth of said river, cuts the parallel of the 38th degree of north latitude; thence in a right line to the westernmost angle of Watkins' point, it being the northern headland of the mouth of Little Annamessex river; thence by a right line to the southwestern angle of the land and marsh at Cedar straits, north of these straits; thence to the main channel of these straits, north of the most northern of the Fox islands; thence due east to the channel of the Pocomoke sound or river; thence up the main channel of said sound and river to the place where the Calvert and Scarbrough line was run 'over' that river in the year 1668; and thence by the marks and monuments on that line to the shore of the Atlantic ocean on the Assateague island."

The commissioners on the part of Maryland considered, and informed the commissioners on the part of Virginia, that their third and last proposition was most respectfully declined.

The commissioners on the part of Maryland then offered the following, to wit:

Proposition Third, by the Maryland Commissioners.

"The Maryland commissioners, in a further effort to settle and adjust the boundary line between Virginia and Maryland, by compromise, respectfully submit, for the acceptance of the Virginia commissioners, the following line, viz: Beginning at the point on the Potomac river, described in their first offer; thence running down the said river to Smith's point in the manner set forth in their first offer; thence running by a right line to the centre of the great thoroughfare of Smith's island, called Mister's thoroughfare; thence by and with the middle of the said thoroughfare to the mouth thereof, at Tangier sound, at a place called Big island; thence by a right line through the centre of Cedar straits to the channel of the Pocomoke sound or bay; and thence up, by and with the channel of said sound and Pocomoke river, to the point opposite to the Calvert-Scarbrough line, as described in their first offer; and thence by and with the Calvert-Scarbrough line to the Atlantic ocean.

"And the Maryland commissioners respectfully submit the foregoing as their last offer of compromise; and, if accepted, it must be with the understanding that all existing titles, rights and liens upon the

land south of said thoroughfare, granted by Lord Baltimore, shall continue in full force, and be considered and treated as valid in law, as if granted by the state of Virginia, or as any grant of confirmation by said state can render them, or any of them."

This proposition was most respectfully declined by the commissioners of Virginia; and they answered on their part that they had no other proposition of compromise to submit. Thereupon the commissioners, after further conference, adjourned to meet at Richmond, Virginia, on Thursday, the 7th day of November next.

BALTIMORE, MARYLAND,
TUESDAY, November 18th, 1873.

The commissioners on the part of Maryland and Virginia, to settle and adjust the boundaries between the two states, by agreement appointed to meet at this place, this day.

Present: Messrs. Jones, Aydelotte and Waters, on the part of Maryland, and Mr. Wise, on the part of Virginia.

Absent: Messrs. Watts and DeJarnette, on the part of Virginia.

There being no quorum, the meeting was adjourned until 10 o'clock, A. M., Wednesday, the 19th inst.

WEDNESDAY, November 19th, 1873.

The commissioners met pursuant to adjournment.

Present: Messrs. Watts and Wise, on the part of Virginia, and Messrs. Jones, Aydelotte and Waters, on the part of Maryland.

Absent: Mr. DeJarnette, of Virginia.

The commissioners employed themselves in examining maps and documents pertaining to the matters before them. Several patents and deeds were referred to, and some were read, and especially a paper signed "James Boyle."

Thereupon they adjourned, at 4½ P. M., to meet on Thursday, the 20th instant, at 10 o'clock, A. M.

THURSDAY, November 20th, 1873.

The commissioners met pursuant to adjournment.

Present: The same as on yesterday.

On proceeding to business, Mr. Wise, on the part of the commissioners of Virginia, submitted to the commissioners of Maryland the following proposition of boundary, by way of compromise, to-wit:

"To commence at the point in the channel of the river Potomac, opposite to the point where the states of Virginia and West Virginia are coterminous on the right bank of said river; and to follow the main channel of said river to the mouth thereof at the meridian of Point Lookout, the north headland of said river, cuts the 38th degree of north latitude; and this line shall be henceforth held and deemed the divisional line of the states of Maryland and Virginia west of the Chesapeake bay."

The commissioners on the part of Maryland, upon hearing said proposition, announced that they preferred to leave the boundary of the two states on the Potomac, as it was left by the constitution of Virginia of 1776, and the compact between the two states in the year 1785; and they proposed to consider the adjustment of the boundary from Smith's point, at the mouth of the Potomac river, across the Chesapeake bay and the eastern shore, to the ocean. The commissioners on the part of Virginia, acquiesced in this suggestion, and called for any proposition of compromise of the line over the Chesapeake, and across the Eastern shore peninsular, which the commissioners of Maryland had to submit. Whereupon, Mr. Jones, of the commissioners of Maryland, by way of compromise, offered the following proposition, to wit:

"The boundary line from Smith's point to be a right line, across the Chesapeake bay, to the centre of Cedar straits upon the Tangier sound, near the southern end of Watkins' point; thence by a right line, in a southeasterly direction, to the channel of Pocomoke bay or river, nearest to Cedar straits; thence up, by and with the said channel of Pocomoke bay and river, to a point therein opposite to the place on the east shore of said river, ascertained by Mr. De la Camp in 1857, to be the beginning on said shore of the divisional line said to have been run and marked by Calvert and Scarbrough in 1668; and thence, by and with said divisional line, as surveyed and laid down on the map made by said De la Camp for the joint commission of Vir-

ginia and Maryland in 1858, to the Atlantic ocean; the right of fishing and taking oysters in Pocomoke sound or bay and river, and in Tangier sound, from the southern end of Watts' island and Tangier islands, to the north end of Deal's island, and west to the Chesapeake bay, to be common to the citizens of both states, subject to concurrent regulations by the two states."

Which proposition the commissioners on the part of Virginia, respectfully decline to accept.

Thereupon the commissioners of Maryland stated that they had no other proposition of compromise to submit. Then the commissioners on the part of Virginia, by way of compromise, to settle the boundary over the Chesapeake bay and across the isles and peninsula of the Eastern shore to the ocean, offered the following proposition, to-wit:

"To commence at the point in the mouth of the Potomac river, where the meridian of Point Lookout, the northern headland of said mouth of said river, cuts the 38th parallel of north latitude; and to run a right line across Smith's island to the low water mark of the north headland of Little Annamessex river; thence a right line to low water mark at the end of Watkins' point at Cedar straits; thence to the channel of said straits; thence a right line to the mouth of East creek at the head of Pocomoke sound; and thence on and by the right bank of Pocomoke river to the point where the line run by Philip Calvert, on the part of Maryland, and Edmund Scarborough, on the part of Virginia, in the year 1668, crosses said river of Pocomoke; and thence by said Calvert and Scarborough line to the ocean."

This proposition was respectfully declined by the commissioners of Maryland. Whereupon, Mr. Wise, on the part of the commissioners of Virginia, offered the following proposition, to-wit:

"To commence, as described in the last proposition, and to run on the 38th parallel of north latitude until said parallel reaches low water mark on the eastern coast of Smith's island; and thence to run a right line to the former location of a light boat, as described in the maps reported by Michler and De la Camp in the years 1858–'59, near the north headland of Little Annamessex river, on Jane's island; and thence a right line to the channel of Cedar straits; and thence a right line to the head of Pocomoke sound, and up the Pocomoke river to the Scarborough and Calvert line; and thence across the same by the Scarborough and Calvert line of 1668 to the ocean."

This proposition the commissioners on the part of Maryland respectfully declined to accept; and thereupon the commissioners on the

part of Virginia announced that they had no other proposition of compromise to submit.

Thereupon, there being no other business to be considered or transacted by the commissioners, they adjourned *sine die*.

Signed, LEVIN L. WATERS,
Secretary of the Joint Commission.

At a meeting of the commissioners of Maryland and Virginia, to settle the boundary between those states, at the Cove hotel, in Crisfield, May 27th, 1872, the following depositions were taken by the commissioners and duly sworn to before ——:

Travis Sterling first called, and absent.

Mr. Isaac Sterling examined by Mr. Jones.

Aged 81, last August; lived in Annamessex all my life, down below; his father, Henry, and his grandfather, Jno. Sterling, has been on Watt's island, on Tangier and Fox islands, and on the marshes between here and Cedar straits; has fished all around the islands pretty much from boyhood up; there are large pine stumps, and many of them around and between the said island; off West point, at Fox's islands is full of stumps; there are large stumps all over the marsh between here and Cedar straits, especially at Broad creek, at a place called the Broug; there are large pine trees lying there now, from which I have picked off oysters; my grandfather told me there was once a considerable island where I am told the middle ground now is, in Pocomoke sound; at the north headland of Little Annamessex, on Jane's island; I, in my day, have gathered peaches from high land near where the outer light house now stands at the Little Annamessex bar; I was fishing with Nathan Bradshaw and old Capt. John Cutten; this was a long time ago, say 50 odd years ago.

Examined by Mr. Wise.

Born near Pocomoke sound, 1½ or 2 miles from here, between Jenkins creek and Ape's hole; Hans. Lawson's father, Jas. Lawson, lived on the west of my birth place; his land extended to Jenkins's creek, which empties into Little Annamessex; old Mr. Littleton and Tom-

my Nelson lived lower down south near Pocomoke; this Tommy Nelson was called by the nick-name of Old King Nelson; he lived at a place called Matthews' creek; nobody lives there now; Tommy or King Nelson's father was named Sacker or Zacker Nelson; he, King Nelson, was very old when he died; Michael Somers, I believe, pretends to own the land where King Nelson lived; King Nelson left children; three of his sons are dead leaving children; they live now in this neighborhood; he has children living; William, daughters Nancy and Betsy; these three are all who are living; he left a number of grandchildren who are now living in this neighborhood; never knew the main land at Cedar straits to be connected with Fox island; Fox islands were the North Fox island, Big Fox island, the Muddy Marsh, and there is another across the Big Thoroughfare, and the Ledge's island north of the Big Thoroughfare; the Big Thoroughfare is between the South Fox islands and Watts's island; vessels have always, at high tide, been able to sail between Watts's island and Fox's islands, at high water, going into and out of the Pocomoke and Tangier sounds; Ephraim Sterling lived east of the place where I was born when I can first remember; the next family east on the Pocomoke or Ape's hole side was old Mr. Jacob Bird; and those were the only families living on the sound when I can first remember; these lived near the mouth of Ape's hole; old Uncle Travis Sterling lived a little higher up; I mean a little off the sound on the land; the peach orchard of which I spoke at the north headland of Annamessex was not on an island, but was a point running out from the high land of Jane's island.

ISAAC STERLING.

Mr. McKenney Tawes was next sworn and examined.

He stated: I am in my 77th year of age, shall be 77 next Christmas; very deaf; my wife is a daughter of Thomas, called Old King Nelson; has heard King Nelson say that his father, Sacker Nelson, lived on Fox island; they burnt his house down in the revolutionary war; John Mason bought from Sacker Nelson, and Middleton Mason, his son, lived there until within a few years past; Thomas and John Crocket bought it, and Tommy and Plowner Crocket live there now; was told Tommy is dead; heard King Nelson say, that when they lived there, well on Fox island was 150 yards out in the sound; don't know his age when he died; heard him say he had eaten peaches at

the north headland of Little Annamessex, near where the outer light house now stands; have heard there was an earth work for a battery on the old island, Jones' island, at said point, which I have seen myself; it is now all washed away; I knew when there was a smart ridge of land, but never knew wheat to grow there myself, but have heard it from the old old folks; no recollection of hearing King Nelson say anything of the washaway of land between Fox island and Watts island; my wife is still living, and I have heard her say that she was born down here on the marsh where Billy Lawson lived, now vacant; she was born on the hammock between Lover's cove and Jenkins' creek; it is about three miles from that hammock to Cedar straits; it is a good big marsh; I don't know who claims this marsh now; Isaac Lawson, nick-named Terrapin, bought the hammock between Somers' cove and Jenkins' creek, and how much of the marsh he bought I can't tell; he bought it not over three or four years ago; he bought it of old Billy Lawson's heirs; old Billy bought it of Elijah Pruit; I don't know who he got it from; Middleton Mason moved from Fox island to Onancock in Accomack, and then I don't know what become of him.

his
McKENNY ⋈ TAWES.
mark.

Marked separately by the clerk, Jno. Mowbray, and Mr. Wise.

Mr. Abraham Somers was next affirmed and examined.

I am very deaf; my name is Abraham Somers, and my age, tradition says, is 79. I was born in 1793. I was born in Delaware; came here when quite a baby; moved here; was acquainted with Old King Nelson; lived near him, about three-quarters of mile say; don't recollect how long he has been dead; have heard him mention the line of Virginia and Maryland; he showed me the tree on Smith's island that was a mark of the line from Smith's point; have been on Smith's island, but the tree was cut down before I first went there; I could see it when standing from King Nelson's house; it was said to be a gum, and stood in Butler Tyler's yard; it is not washed away, and the land is there now; don't know but the stump is there now; he said it ran by Watkins' point. Butler Tyler I did not know, but I knew David Tyler, his brother, and I knew a daughter of Butler Ty-

ler named Nancy. The two brothers lived close together. King Nelson showed me the tree, and told me it was a line. This was said by King Nelson to be a mark of the line from Smith's point to Watkins' point.

his
ABRAHAM ⋈ SOMERS.
mark.

Mr. John Cullen was next sworn and examined.

I was 79 years of age the 13th May present—this month. Was born in Annamessex, where Hans Lawson, the father of James and grandfather of Hans Lawson lived; have lived there as my home all my life, when at home, but have been a great deal from home. I knew King Tommy Nelson—can't say when, but think he died about 1854 or 1855. Have heard him say that his father, Sacker Nelson, told him that he had seen the time when he could have taken a fence rail and have reached cross all the break-throughs, and have walked across them all between Fox's island and Watts' island. I never heard King Nelson point out any line across Tangier sound between Maryland and Virginia but once, when I was at John Nelson's, and where the coast survey had its sites or signals set up, he pointed to one on Fox island, and said that was near where the line of Maryland and Virginia passed. It appeared to be pretty well on the west point of Fox island, near, I presume, where a pine with a round top stands; there was but one tree. Never heard him say more about the line; was never on Smith's island but twice—only in harbor; was there with John S. Handy and Henry Thomas to lay off the first election distribution laid off on that island by Maryland. [Here a memorandum of the record of the time was shown him by Mr. Jones, in June 1835.] Don't recollect the bounds laid off; Solomon Evans, Thomas Tyler, and another old Mr. Evans, described where the line was; I went with them to the church; they were notified that we were going on, and we met there at the church; there I asked them to give me the line between Virginia and Maryland, and we made the return according to the information they gave us; they told me that John Tyler, who lived at Horse hammock, lived in Maryland, and we made our report on the verbal description of the persons whom we examined. We did not go to Horse hammock or to any point, but took the description at the church, and they all told me that John Tyler lived at Horse

hammock, and I thought, and we all thought, that Horse hammock was "Dunn point"; never had the line pointed out to me at any other time, and thought the line across the sound commenced at Horse hammock, and never had any point shown me on this side of the sound for the course of the line between the two states. I arrested a vessel in 1851, called the Fashion, belonging to Severn Tyler, and John Tyler was on board of her as captain; saw her dredging off the mouth of Little Annamessex, west of that mouth, at a rock called Fittby's rock, northeast of the great or big oyster rock—the largest rock in the sound; we did not arrest her at Filley's rock, but we were coming up the channel of the Tangier sound, and the boats saw us and become suspicious of our intent, they bore down the sound in a southwest west direction, as if he wanted to get to Horse hammock, which was John Tyler's home. From where we saw him dredging he ran about two miles before we arrested the vessel. At the point where the arrest was made, he was, I suppose, in Virginia waters. There were witnesses in the case of Severn Tyler examined as to where the line of Virginia and Maryland was. Thomas Tyler was examined; I don't recollect whether Hoffman was sworn. T. Tyler said that there was a cedar standing on the east side of Smith's island, but that the marsh or point where the cedar stood was all washed away; that he and others went down on that side where he understood the cedar had stood, and he waded in and searched until he found some roots; he pulled up the roots and carried them to the shore, and told them to examine and see whether that was not cedar, and it was pronounced to be cedar, and he stepped from where the cedar was and said the boat was arrested in Virginia; I asked him how it was that when we laid off the election district that he said Horse hammock was in Maryland; and he made me no answer, but turned away and would not answer; he was father of Severn Tyler, and grandfather of John, the captain; I think that no witnesses were examined on my part in the case of Severn Tyler against me (I am the same man, John Cullen, against whom the judgment was had) respecting the line of the two states.

Examined by Mr. Wise.

I was absent much from home, having for many years been a seafaring man; and all that I know about the line between Maryland and Virginia either of my own knowledge or by tradition I have stated; I think it was in 1853 or 1854 when King Nelson told me what his

father told him about the state of the waters at the break through between Fox's islands and Watt's island; then at the time when he so told me the space between Fox's islands and Watt's island was all broke through; the space is about five miles; I had known that space ever since I was 15 or 16 years of age; it has been 40 years since I was at Watt's or Fox's islands either, but I think they have washed away a great deal; I have not been there, at either Fox's or Watt's islands, for 40 years; I was acquainted with Watt's island from the time I was 16 years of age until about 40 years ago; I knew Watt's island from about 1809 to about 1832; the last time I was there, about 1832, it had washed away 75 yards in front of the house where old Robert Parker had a wharf; I think the high land had washed from 70 to 80 yards; the north end of the island had washed away a good deal, but I can't say, I cannot tell how much, Fox's islands have washed away; in the 23 years, from 1809 to 1832, I think the south end of the south Fox island had washed away from 40 to 50 yards; the small island just off the north end of Big Watt's island, had washed away but very little; the westernmost point of the north end creek had washed away very much; there were two breaks through at the westernmost point and one at the easternmost point of north end which had washed a great deal; where King Nelson informed me, as I have stated about these waters between Fox and Watt's islands in 1854, I do not know how long before his father, Sacker Nelson, had died; I never knew Sacker Nelson; I know Josiah Parker, the son of Robert Parker, now living; I believe his age is about 82; he is my father's half brother, and I have not visited him for forty years, nor has he me in that time; in all my time I have never known Fox's islands to be connected with the main; I don't now know, and never did know, Fox's islands well; when I first knew them there were first the north island called Green Harbor; second, facing south, Maggathy Hammock; next, Doc's Hammock; next, Slip Ledge; next, the Long Ledge; next, the Round Ledge, and there was the Eastern Hammocks of Fox's islands; and then on the west of the group is Big Fox's island, and there is a little island between the two thoroughfares, and now Big Fox's island I am told is cut in two by a break through; and there is Muddy Marsh to the east of the lower Fox's island; there were 3 muddy marshes, but there is but one now; I never knew of an island in the Pocomoke sound called George's island; there is what is called the middle ground, a sand bar over which a canoe cannot pass at low water; when King Nelson showed me where the line of the two

states passed Fox island I think was in 1853 or 1854; if I have been understood as saying that King Nelson in 1853 or 1854, I think, where the coast surveyors had erected signals along the eastern coast of the Tangier sound; that he actually pointed to or actually showed me any signal on Fox islands I did not mean to be so understood, but I mean to say that he told me that a signal which was on Fox's island was never the line of Virginia; he did not point to any signal on Fox's island, or show it to me, but I had seen one there and we were talking about it, and he said that it was near the Virginia line; it was on the northernmost one of the group of Fox's islands; I never knew otherwise than this that the signal there was near the Virginia line; of my own knowledge I never knew where the Virginia line was; I had my ideas of it, from my hearing that there was a direct line from Smith's point to Chincoteague; I do not say that that line would cut any part of Smith's island and I don't think it would; I laid off the line of the election district on Smith's island in 1835, leaving a part of said island in Virginia, because the men on the island told where they understood it to be; the one tree which was standing then on Fox's island, was on the northernmost island of the Fox island groupes; if there is but one tree of a large size standing on Fox's islands, it must be on the northernmost island, and on the north end of the northernmost island; I do not know whether there is any tree at all now on the northernmost island; if there is one large tree now standing on Big Fox island too large and old to have grown there since 1853 or 1854, it must have been there in 1853 or 1854; I never knew of any mark, tree or other mark of boundary, between Maryland and Virginia, on either of the Fox islands, or on the main land near Cedar straits; I was never informed of any such mark other than as I have described, or as related to me by King Nelson; I never looked for any mark at the place where I saw the signal of the coast survey, talked about by me and King Nelson; copy of the report, signed and sealed by John S. Handy, John Cullen and Henry Thomas, dated 16th June, 1835, made by them to the levy court of Somerset county, describing the limits of the election district then laid off on Smith's island, has been read to me, and it seems to be a correct copy of the report made by me and the other two commissioners. [Here insert the report.] When I seized the Fashion in 1851, I thought the Big Oyster rock was in Maryland; when I seized the Fashion, running from Fellby's rock in a southwest course, and as I thought towards Horse hammock, the then home of John Tyler, I seized her at the north end or upper part of the Big

rock; when I seized her there, I thought at that time that she was in Maryland; in the civil case of Severn Tyler against me, for seizing the Fashion there, the verdict and judgment in that case were decided against me, and I had to pay the damage which was assessed against me; the damage was assessed against me for the damage and detention of the vessel and the witnesses who were sworn in the case for the plaintiff; I did not mean them who put the value on the damage done to the vessel; Thomas Tyler, in the trial of the case of Severn Tyler against me, swore that the cedar described by him stood some distance north of Horse hammock; from that point above Horse hammock, he sighted across the sound, and said the vessel was in Virginia; he did not say to what point he sighted; he, Thomas Tyler, was not examined as a witness in the case of Severn Tyler against me; he testified in the case prosecuted by the state of Maryland against the vessel, and stated what he did about the cedar; when the vessel was cleared from the prosecution by the state, then Severn Tyler sued me, about a year afterwards, and recovered verdict and judgment against me; and Thomas Tyler was not examined in that case; Thomas Tyler did not admit, when I asked him how he came to tell me that Horse hammock was in Maryland, when the commissioners laid off the election district on Smith's island, that he had ever told me so, but walked away and made no answer; he did not deny it, nor did he admit it.

Re-examined by Mr. Jones.

According to my recollection, the verdict and judgment which were rendered in the case of Severn Tyler against me, in the civil suit for damage and detention of the vessel, were rendered by consent; Mr. Crisfield, the counsel of Mr. Tyler, came to me and said my case was a good one for the legislature, and urged me to compromise; that he would do all he could for me; my counsel, Judge Tingle, coming together with Mr. Crisfield, also advised the same course; I recollect of no witness being examined, except about the damage to the vessel; I recollect of no witness being examined about the detention of the vessel, and of no witnesses being examined except Southey Miles; there were no witnesses examined as to whether the vessel was seized in Maryland or Virginia; and none as to whether the vessel was dredging in the waters of Maryland or Virginia; none, according to my recollection; but witnesses were examined in the previous cases of the state of Maryland against the Fashion, and I was myself examined in those

cases, and stated what I have stated here, that she was seen by me to be dredging on Fillby's rock, and was seized by me on the upper part of Big rock, and the vessel was acquitted or cleared of violating the laws of Maryland by dredging in her waters; by the line spoken of by me as the line which I thought was the line of Virginia and Maryland, running from Smith's point to Chingoteague, I meant Chingoteague island.

JOHN CULLEN.

Mr. Benjamin Langford was next sworn and examined.

I am now 72 years old; I was born in Annamessex, about four miles east of this place, near where I now reside, and I now reside right on the Pocomoke sound, about three quarters of a mile from the shore; I live on the tract known and called Kirk's purchase. Here the witness produced a paper, purporting to be an extract from Liten, No. 14, folio 265 or 261, stating that the grant of Kirk's purchase, dated 10th May, 1671, lying near "Watkins' point," as shown by the copy hereto annexed. The tract of land called Watkins' point, lies on the east side of Apes' Hole creek, near to the mouth of it, once called Johnson's creek; have never heard any tradition of any line from Tangier sound across this peninsula to Pocomoke river, never until Lee came here to run a line; I heard they were running a sort of a promiscuous line from Worcester county through here, but I never knew what line they run or where they made it.

Examined by Mr. Wise.

I have heard of no line except what I have learned from books, from Jefferson's Notes of Virginia, and from McMahon, John V. L. McMahon's history, and he says about the same thing; that a line run from Cinquack to Watkins' point, and where Watkins' point is I never knowed; I don't think I ever heard of any tradition about a line run by Philip Calvert and Edmund Scarbugh; I did not know of that line, but I may have heard of it; I had read John V. L. McMahon's history of Maryland, before Lee came to run the line which he run; I read a part of it but never read it through in my life; have heard of a man named Kilty and believe I have heard he was a lawyer, but never heard any more about him; I don't know where I got the tradition of Calvert and Scarborough's lines.

BENJAMIN LANKFORD.

In pursuance of adjournment at the Cove hotel, Crisfield, May 27th, inst., the commissioners met at Horse Hammock, May 28th, inst., and finding they had no one competent to administer an oath, they sent to Crisfield to procure a justice of the peace or notary public, met again at the house of Johnson Evans, at Horse Hammock, May 29th, inst., and proceeded to examine other witnesses as to the true boundary of Maryland and Virginia on Smith's island.

Present: Thos. K. Wheelton, justice of the peace of the state of Maryland; Hon. I. D. Jones and Wm. J. Aydelotte, commissioners of Maryland, and Hon. D. C. DeJarnette, Col. Wm. Watts and Henry A. Wise, commissioners of Virginia, May 29th, 1872:

John Marshall was first sworn and examined.

Examined by Mr. Wise.

I am going in my 63d year ever since the 19th of the present month of May; I was born on Sykes's island; I came to Smith's island to reside when I was about 17 years of age, and have resided on Smith's island ever since; I have known the greater part of the old inhabitants of Smith's island ever since; I knew Tommy Tyler, William Tyler, Elijah Evans, John Parks, John Evans; and I knew Jacob Bradshaw and Solomon Evans at Kedge's straits, and Hampton Bradshaw and Littleton Bradshaw, his brother, and others; and all these and other old people are now dead except Mrs. Vina Bradshaw, the widow of Jacob; the oldest man now living is Mr. Teackle Evans, who is, I think, close by 80 or 85 years of age; and the next oldest man is Captain Ephraim Tyler, who keeps the Fog's point lighthouse, and the oldest of the junior generation are Hainey Bradshaw, Severn Bradshaw, Francis Evans, Mrs. Maria Guy, and myself and others; I was shown what was said to be the line between Virginia and Maryland on Smith's island, say from 15 to 20 years ago, by old Mr. William Tyler, when he and I were alone; he showed me a boundary stone, from three-quarters of a mile to a mile north of Horse hammock, where Johnson Evans now resides and where old Captain Peter Evans lived at that time; he told me it was fixed there for the boundary stone between the two states of Maryland and Virginia; he told me that he was carried to that stone and whipped by his grandfather, I think, named Butler Tyler to the best of my knowledge; and that he was whipped there to make him remember that it was a boundary stone between the two states. This was about 15 or 20 years ago; the stone

has not been moved to my knowledge since, but this ice may have moved it two or three feet, but I do not know that it has moved it, and if it has moved it; I would say, from my knowledge of the movements of the ice, that it has moved it to the south, if it has moved it at all; I was first called to notice the stone in 1851, in the case of John Tyler against the state of Maryland, was tried before the circuit court of Somerset county, in the state of Maryland, in the year 1851; this case involved the schooner Fashion, of which Severn Tyler was owner and John Tyler captain, for dredging oysters in the waters of Maryland, contrary to her laws; witnesses were examined in the trial of that case as to where the line of Virginia and Maryland ran across the Tangier sound; I was examined myself as a witness in the case, and I heard the examination of other witnesses in the case; the vessel I saw seized, and she was taken by Mr. John Cullen, I know not by what authority, on the westward side of the Great rock; that rock lies about from east to southeast from Horse hammock, this house; I did not see her in the act of dredging; that rock is a very large rock, it lies north of the present Davidson and Lovett line; I mean it is a large oyster rock, called the Great rock; I don't think any portion of that rock lies north of an east line from the stone described by me; I have never been called to note that stone since, until called on by Mr. Aydelotte and Mr. Wise, here present, in October, 1871; at that time I showed that stone to these two commissioners, and to captains Browne and Drummond, and others; the same stone which I showed to them then, at the same place, I went to on Friday last, and saw it removed from its place, lying on the edge of the marsh, and a stake sticking in the place whence it was removed; according to what I heard Mr. John Tyler testify in the aforesaid case in 1851, I have no doubt that stone was a boundary stone between the two states; he testified in court that he was carried to that stone, as a boundary stone, and whipped severely, to make him remember the stone as a boundary; Mr. Thomas Tyler also testified that he was carried to the stone and "ducked," to make him remember it as a bounder; Mr. John Tyler also testified that he was carried to it and whipped at the same time; these were all who testified about the stone at that trial, and they are all three dead; Mr. William Tyler died about three years ago, and I am told his age then was about 80 years. Mr. Thomas Tyler died, I am told, about 1864, and his age on his tomb-stone is marked 91 years; so that he was about 78 years of age at the time he testified in said cases. John Tyler died, I am told, 17 years ago last September; I don't know his

age when he died, but am told he was between 60 and 70 years of age; so that he must have been about 61 when he testified. William Tyler was the son of David Tyler; Thomas Tyler was the father of David, and William Tyler and Thomas were both the sons of David, whose father was Thomas Tyler; John Tyler is said to have been the father of the last named Thomas Tyler, who was the oldest Tyler I have ever heard of. Thomas Tyler, the son of John the elder, lived, I am told, at the Home place on Dunn point, and that place has been, as long as I have known it, in the Tyler family until purchased by my son, John Wesley Marshall, and others, in 1866. I know of but one "Dunn point" on Smith's island, but am told there are two. I remember there is a Dunn point two or three miles north of this on the northeast coast of Smith's island, but that point is not the "Dunn point" which I mean as the Home place of the Tylers; where William Tyler lived was called "Dunn point," and where Thomas Tyler lived was called "Black Walnut point." These two points were adjoining lands one to the other. Benjamin Bradshaw lives on "Dunn point," also William Evans, also William Snead Bradshaw, also Stuart Evans; and John W. Marshall, my son, lives on "Black Walnut." These two points are near the middle of, on east and west line across, Smith's island. This Dunn point is not far off from Tyler's ditch; and on Sabbath last, Mr Ephraim Tyler, the keeper of the lighthouse at Fog's point at the north end of Smith's island, told me that he could not be here to testify, but sent word by me to the commissioners that the line between the two states, as he was told by old Mr. Butler Tyler, his grandfather, I think, ran right through the yard of the Home place, between the kitchen and the house, at Black Walnut point. I don't know who Butler Tyler was; I am told that he was the elder brother of David Tyler. There are two ditches or canals called Tyler's ditch or canal; one runs by Black Walnut point, and is the northern one; and the other I never heard called Tyler's ditch until I heard the deed read from Elisha Crockett and wife to Richard and William Evans. Always before I had heard it called Parke's ditch. The one north of this I had always before heard called Tyler's ditch." The southern ditch cuts South point marshes, and how far these marshes ran north I don't know. I own half of South marshes now—my son a small part or share in it. We hold up to Parke's ditch; nobody lives near it on South point. The marshes west of South point are called Hog neck, north of Shanks' marshes, which are the part of Smith's island. A house is now standing on Hog

neck, where, I am told, the run-away marriages were held to and from Maryland and Virginia. The house is standing, but the kitchen is down. I was told by old uncle John Parkes, who was a very old man, and owned the place, that when couples ran away from Maryland to be married in Virginia, they were married in the kitchen, and when they ran away from Virginia to be married in Maryland, they were married in the dwelling-house; Mr. John Tyler now lives in the dwelling-house, and I can now come pretty near where the kitchen stood. I have known old John Nelson, who was the son of old Tommy Nelson, called King Nelson; John Nelson's children have always, as I know and as long as I have known them, always lived on the lower part of Little Annamessex; I mean between Tangier and Pocomoke sound, and south of Little Annamessex. They lived higher up a great deal than Cedar straits. I live on Shanks' island, and I have paid taxes in Accomack county, Virginia, ever since I have lived on Smith's island; I first settled on South Point island close up to "Dunn Point," where Benjamin Bradshaw now lives; the creek just separated us; a mile, more or less apart, and then as well as now I always paid taxes in Virginia; I have never known the time when Fox's islands were ever joined to the main land north, and I have never heard of any such fact; and when I first came to Smith's island I came through Cedar straits in a canoe and flat sloop, and have known it ever since, having been through them I suppose 100 times; I have also known what they told me were Fox's islands; there is a neck of land between Big Fox island and the main; it is an island now, but whether it has been artificially cut through or not I do not know; the passage between Watt's island and Fox's islands has always in my recollection been open to vessels of 6 feet draft and a little over; I have gone through there myself in a loaded vessel drawing 6 feet water; I think it is not more than three miles from the lowest Fox's island to Watt's island, and I have never heard of any tradition stating that there was ever a time when one with the aid of a fence rail could walk from Fox's islands to Watt's island; I don't know where Cow Ridge is, except what I have been told; that it is where Severn Bradshaw, now present, lives, lying south of the thoroughfare on Smith's island, the thoroughfare runs right by it; his house is not more than 100 yards from his landing on the thoroughfare; I do not myself know of any place on Smith's island called Horse hammock, but have heard of a place called "Oak Hammock," where Alick Tyler now lives; I know where old man John Parker lived; he is now

dead; he lived from 2 to 3 miles south of the north Tyler ditch, which cuts through into the thoroughfare; John Parks's land was conveyed over some twenty years ago to James Hoffman, who removed to Pungoteague creek, in Accomack county, Virginia, and he sold the same land to John and Severn Tyler; John is here at this house now, and lives now in Hogneck, on the same; they tell me that 900 acres of the land was recorded in Accomack county, Virginia, and the balance was recorded in Somerset county, Maryland; I have never paid taxes in Maryland on land or other property, or for any purposes whatever; old Wm. Tyler told me that when Peter Evans lived here at this place of Johnson Evans, called Horse hammock, he, Wm. Tyler, always paid the taxes assessed in Virginia at Drummondtown, and Peter Evans (who was my brother-in-law) paid him Wm. Tyler.

Examined by Mr. Jones.

To prevent misunderstanding of what I have heretofore said, I will now state that my meaning as to the time when I first knew of the stone spoken of by me, was to say that I first knew of this stone 15 or 20 years before I was examined in 1851, in the case of John Tyler against the state of Maryland, about the "Fashion;" I now say, that I was first told of this stone by William Tyler, about the time of my first coming to Smith's island; I was never told by Mr. William Tyler anything about a cedar near the stone, and if he so stated in court I never heard him, or don't recollect it; I never heard anything of a bounder but a stone, and nothing in the trial of the case of the Fashion about a cedar; if anything was said about a cedar I don't recollect it, and was not present all the time at the trial, nor anything of a cedar, or a cedar stump or root, that I recollect; nobody from the island, Smith's, testified about the line of the two states but the three Tyler's; Peter Evans lived here, at this place called Horse hammock, many years ago, say 25 years or more; he bought it from old Mr. William Tyler and Allcey his wife, for mortgage debt, and sold it to John W. Marsh, who now lives on Chesconessex creek, in Accomac county, Virginia; I think, but I don't know, that the deeds from William Tyler to Peter Evans, were recorded in Accomac county, Virginia. (Here Mr. Jones read to witness an extract of a deed to Peter Evans by William Tyler and Alcey his wife, dated 2d October, 1842, and also a deed from Peter Evans and Triffeny his wife, to John W. March, dated 3d of October, 1857, both deeds recorded in Somerset

county, Maryland, and both deeds conveying a tract of land called Horse hammock, and reciting metes and bounds thereof, as in Somerset county, Maryland, and beginning at a well known bounder stone lying at the sound side, about three quarters of a mile to the north of the house, &c., as shown by copies hereto annexed as exhibits.)

By Mr. Aydelotte.

Has no recollection of any processioners coming on here to procession lands on Smith's island, from Virginia; and the officers of Virginia have always neglected to come on here for any purpose, except when they want us to vote; I have never known a sheriff to come on here to collect taxes; they give in our lists themselves, and make us pay what they charge, and we have to go to the main land; I have paid always in Virginia, and never to any officer of Virginia on Smith's island; I have always voted in Virginia, except one time, and that was when I lived up on South point, and then I did'nt know in which state I lived, and voted in both states; I pay the oyster tax in Virginia; many of the people of Smith's island pay their taxes on the oyster licenses in both states; Captain Browne has granted licenses, I believe, to people on this island clear up to Kedges' straits; in 1833, I lived on South point, and voted for Mr. Wise, here present, for congress, and voted for him up to February, 1844, when he left the house of representatives of the congress of the United States; Mr. Jones was elected in the adjoining district in Maryland, in 1841, 1842 and 1843; I never voted for Mr. Jones, but did vote for Mr. Wise in 1841 and in 1843, for the reason I was in Virginia, and I lived on South point, Smith's island.

his
JOHN ⋈ MARSHALL.
mark.

James T. Evans was next called, sworn and examined, by Mr. Wise.

My age is 59; I live close to the place where I was born, on the same tract called "North end;" that place is very near a gum, about two miles north of this, close on the Thoroughfare; I take out my vessel license in Virginia, at Drummondtown, until the custom house was changed to Cherrystone; I was well acquainted with old Tommy, called King Nelson, and with old Job Parks, called Joby, two of the

oldest men I remember of ever knowing; I think they said Tommy Nelson was 105 years old, and Joby Parks was a little older; they told me that they hope run this line between Maryland and Virginia, and carried the chain; they said they went to Ragged point, on the Potomac river, and run a southeast course, five miles below Point look-out, down the Potomac, until they got north of Smith's point; from that five mile point, they struck an east course across the Chesapeake bay to Mister's thoroughfare to a gum tree, and from the gum tree to Beaver hammock, and put a stone there on Beaver hammock, between two cedars, and plants of the stumps are there now, and so is the stone; and thence to a point called the Barn, where also they placed a stone, which is said to be there; and then an east course to Caleb Janes' island, where they said a peach orchard stood, leaving a part of Janes' island on each side of the line; and now I can't say whether they said that they ran an east or easterly course from that point to Pitts' creek, on the Pocomoke river, they said they ran an east or easterly course to Pitts' creek on the Pocomoke; they said they brought the stones from Potomac river, which they placed as above stated; I have seen the gum tree of which I speak, and recollect it well; that tree stood on the south side of Mister's thoroughfare; beyond Pitts' creek, they did not say anything about running the line; besides this tradition, there were other traditions about where the line was, some said it was at Old Hein island channel, some said it was up as high as Troye island in the Thoroughfare, and some said as high as Kedges' straits; I was once a pilot with Blount, the coast surveyor, about 16 or 17 years ago; he settled a large cedar bounder about ten paces on the sand shore at Ragged point, on the south side of the Potomac, and I believe that post is still there, it was put down so very deep, I can't say how deep; the gum spoken of was then on the land of Marmaduke Mister, and it is now Severn Bradshaw's land; the cedar post at Ragged point was put on the land of a Mr. Bowie, whose first name I don't recollect; Mr. Blount exactly agreed with the statements of Tommy Nelson and Joby Parks, as to the line as far as Pitts' creek; Mr. Nelson told me about this line when I lived at Janes' island, about 36 years ago, counting by my children; then I moved from Janes' island to the upper house on Tangier island, about 28 years ago; and Job Parks and I became acquainted after I moved to Tangier, and he told me this about the same time 28 years ago; he lived on Tangier, and is the father of Stephen Parks, now living; both Nelson and Parks stated, that when the line was run, there were a

number of officers and other persons engaged in the work, and they had barges, &c., with them; I was told by them, separately and apart from each other, a long way apart, and at different times, and they agreed with each other; I have seen the stone at Beaver hammock, between two cedar stumps, when it was in one piece, it is now in two pieces; I can't say how big it was, but according to my calculation, and that of others, it weighed about a ton; when I saw it on the bank, before it went down the bank, it looked almost white, showing plainly from afar; there came a very hard freeze, about 1832, I know by the death of William Tyler, and a heavy storm, which cut the ice under the stone and drove it out, and the stone was afterwards found in the water in two pieces; Beaver hammock is where you found the stone, below Troye island from a third to a half a mile; Nelson and Parks mentioned no other boundaries of stone, and no other marks of the line to Pitts' creek, that I remember; I have heard old Mr. Johnny Parkes say, the same who lived where John Tyler does, that the line went between his great house and kitchen, and Butler Tyler always said it went through his yard between his two houses, dwelling and kitchen; and Marmaduke Mister said it was not so, it went to the gum, for he saw Nelson and Parks when they helped to carry the chain.

Examined by Mr. Jones and written by Mr. Watts.

Job Parks told me he was thought to be over a hundred years old, and something older than Tommy Nelson. They said they helped to run this line soon after the revolutionary war. Tommy Nelson, at the time he told them, lived in Jenkins' creek. We were out fishing when he told them. He said they commenced the line on the Potomack at Ragged point; they ran southeast until they got five miles below point Lookout, and then east to the Gum —; Job Parks said he was pressed by the British and kept until the year 1780; he made his escape and got to Drabs' island and walked across Brandkin sound, through to Flat Cap shore; he then traveled down to Cedar straits, and then started across Tangier sound upon the ice to go to Tangier; he came to an air hole or strait, and jumped; fell and slided across and got to Tangier. In the spring he went into the American troops and served till peace, and he and Tommy Nelson were in the same brigade; they helped in this survey before they were discharged from service in the army. Tommy Nelson told me he volunteered in the war and served till peace; did not tell me how old he was at the commencement of

the revolution; he must have been full grown; they both told me they were soldiers in the service, and were employed in surveying the line I have spoken of, before they were discharged, after peace was proclaimed in 1783; I can't say whether or not they stated that they carried the chain all the way to Pitt's creek; they stated that they carried it across Smith's island, and did not tell me that either of them was discharged from the survey before they got to Pitt's creek; I take it that they did go to Pitt's creek. When I was employed with Blunt he was engaged in putting out buoys; he said the line he ran was the boundary between Maryland and Virginia; I can't say positively, but I think that Job Parks and Tommy Nelson had told me of this line before I was with Blunt; I have no education and can neither read or write. I know where Queen's ridge is on Tangier island; I know of no other place by that name; Piney island is northeast of Queen's ridge; I know Rich hammock, which lies north of Piney island; old *Hern* island is a little south of east from the mouth of Shanks' creek on Smith's island. [Here Mr. Wise read a copy of a commonwealth's grant, signed by Beverly Randolph, governor of the commonwealth of Virginia, granting to Richard Evans forty-seven acres of land, lying in the county of Accomack, Virginia, twenty-seven (27) acres thereof called Queen's ridge, described by courses and distances; also five acres thereof called Piney island, described by courses and distances; also seven acres, another part thereof, called Rich hammock, described by courses and distances; also eight acres, the residue thereof, called Old Hern island, and described by courses and distances—sealed with the lesser seal of the said commonwealth on the 31st day of October, A. D. 1791, and of the commonwealth the sixteenth, and certified by William P. M. Kellam, register of the land office of Virginia; which copy is herewith filed as a part of this deposition, marked X X.]

his
JAMES T. ⋈ EVANS.
mark.

Mr. David Tyler was next called and sworn and examined.

I am 53 years old 29th April, 1872, born in 1819; I reside now on the north end of this Smith's island, not far, a mile say, from Fog's point; I was born and raised on the land where Thomas Tyler, my father, lived, and resided there until I was 29 years of age; my father

was the brother of Wm. Tyler, and they were the sons of David who was the son of Thomas Tyler, who was the son of John Tyler, the first of whom I know anything, who came from England, and where he settled, I don't know, but presume he settled on this island; David Tyler died, I think, when I was four years old; my father died in 1864, and Wm. Tyler died in 1868; they thought there was a line across the lower part of this island; they lived on the piece of land where their father and old Butler Tyler, their uncle, lived; Butler owned all the lands, I am told, at Drum and Black Walnut points; he was the oldest male heir under the English law; and becoming infirm he sold the whole of his land to his brother David; David had 7 children—Thomas, John, Nelly, and Severn, William, Zipporah, and Ann—naming them as their ages ran; Ben. Bradshaw, William Evans, of James, Wm. S. Bradshaw, Stuart H. Evans, are all who are living at Drum point, and Thos. Bradshaw, John Wesley Marshall, Peter J. Marshall, Ben. Marsh, and John H. Bradshaw live at Black Walnut point; the home of Butler Tyler, who owned all of the land, was on Black Walnut point; I have heard my father, Thomas Tyler, say that the line run west from this piece of rock above Horse hammock more than a half a mile across the island; I have seen that rock two or three times; it is out of the pass way a little; I have known that rock to be there 20 years, I know; it was never moved within my knowledge since I first saw it; I heard them talk about it and went and saw it; the old man, William Tyler, said that he was whipped there when a small boy to make him remember it was a boundary between the two states, I think, but not sure; it was, I understood from them both, that it was a portion of the Pitchcraft patent, and also a bounder of this land.

Examined by Mr. Jones.

The same stone has been taken and held as the beginning boundary of this tract of land called Horse hammock; John Tyler, my uncle, lived here; he died in 1834; Peter Evans bought it under a mortgage deed from John Tyler to Wm. Tyler; I was a small boy and know but little of business matters at that time; I cannot say when that stone was first called a bounder of this place called Horse hammock; my father lived here more than 54 years ago; he removed from here about 1818, I think, and as I have heard, and he always held the stone as the beginning of this land called Horse hammock. I wrote

one deed from Peter Evans and wife to John W. Marsh, recorded at Princess Ann, Maryland, in 1857, and the other was from John W. Evans and his wife to his father, Johnson Evans, in the year 1872, recorded I don't know where. I never examined any other deeds for this land. When William Tyler gave Peter Evans the deed there was right smart dispute about where it ought to be recorded; Evans wanted it recorded in both states; Tyler told him that was unnecessary, and it was recorded in Princess Ann; and Evans got a copy and carried it to Drummondtown, the courthouse of Accomack, and had it recorded there. I have no knowledge of where any deeds for this place called Horse hammock, prior to this deed, were recorded. John Tyler was a justice of the peace for the state of Maryland before 1830, when he lived here. I never heard either my father or uncle William say that this house, called Horse hammock, was in Maryland, but acted as if it was. My father thought it was in Virginia, and I heard a strong argument between him and James Hoffman about where the line was; Hoffman insisting that all Smith's island was in Maryland down nearly to Old Hern island, and my father contended a part of Smith's island was in Virginia. My father thought that boundary stone I have named, north of this house, was on the line between the two states. My uncle William thought that the deed to Peter Evans was sufficient to be recorded in Maryland, and refused to give another deed, and Evans had the copy recorded in Virginia. I never put the quantity of the land, by naming the number of acres, in the deed I wrote. The persons residing in this house, within my recollection, I have known to vote in Maryland, and they send their children to the free schools of Somerset county. Four years ago a public road was laid out from this curtilage to the church on this island as a county road of Somerset county, Maryland, built at the expense of that county, costing about $1,300. I have no knowledge of the manner and cause of appointing my uncle, John Tyler, a justice of the peace of Maryland. There had to be two justices of the peace on the island to certify deeds, and I believe my uncle and Solomon Evans were appointed at the same time. Solomon Evans lived at the very north part of Smith's island. I never knew justices to be appointed on this island before. James Hoffman was elected a justice of the peace for Maryland in 1853, and served two years. He lived where John Tyler now lives, on Hog neck, and there is a piece of land south of where John Tyler lives, conveyed by Hoffman or his son to William D.

Bradshaw, I think; I wrote the deed and took the acknowledgment, but I don't know where it was recorded.

[Here Mr. Jones produced a copy of a deed, dated 11th day of May, 1872, from John W. Evans and Polly his wife, to Johnson Evans, describing the lands as situated in Somerset county, written by the witness, as an exhibit.]

The witness then added that the stone mentioned in this affidavit is the same mentioned in this deed.

DAVID TYLER.

Mr. Severn Bradshaw was next called, sworn and examined.

I am in my 63rd year of age, residing on Smith's island, at the thoroughfare called Mister's thoroughfare, and state that I heard my father, Jacob Bradshaw, who was in his 63d year when he died, say that he had always heard that when the old line between Virginia and Maryland was run, the persons who run it shaped their course across the Chesapeake bay for a gum tree, which was standing then about 125 yards south of my house, where I now live on the Orchard ridge; I don't think it has been exceeding 25 years, if that, since that tree died; I had children then, when it died, pretty well grown; it was a large white gum, 2½ feet in diameter, I think, though I never measured it; and it was a very high tree and bushed off with two prongs to it and covered a half acre by its top when in leaf, and died, I think, of old age; the body was hollow; the stump is mostly gone, but some of it is now to be seen above the ground, but the roots are there and you can see the bigness of the tree; the line it was said ran so near the thoroughfare that they came through the thoroughfare and then came down it and took that tree as the mark which they thought near enough; I have heard of a stone in the thoroughfare, I can't say how long ago, but a good while ago, but never saw it until last year; it lays about ten or twelve yards, I suppose, from the shore, in two pieces five or six feet apart, and about 100 yards to the south of Beaver Hammock point; from what I have heard from the old people on this island, and from the size of the stone, I believe positively that it was put there for a boundary mark between the two states of Maryland and Virginia. When Old King Nelson, who died about 20 years ago, once came over to this island from Annamessex, he was at Ben. Evans's house at north end, he conversed about the line of Virginia

and Maryland, and said that, in his opinion, that Mister's thoroughfare was the line, and that the church stood, he thought, in Virginia; he did not speak of the white gum, nor did he say what was the course from the thoroughfare; he told me the same summer, of the year he died, maybe the year before, that he thought his age was about 100 years; his reputed father was Sacker Nelson; I have heard my father say so; he and his descendants lived ever since I could remember on Jenkins's creek at Little Annamessex; Hainey Bradshaw and Henry Dies know of that stone; I was the rise of 40 years old when I heard King Nelson say what I have stated; when I first heard of the gum tree being the line from my father I suppose I was ten or twelve years of age; my father died in 1843, 29 years ago; David Tyler when owning Horse hammock sent down to Tangier island to bring up Thomas Crockett to ascertain where the Virginia line was, and when he came Thomas Tyler and Littleton Bradshaw went with Thomas Crockett and David Tyler to where the stone is now three-quarters of a mile north of Horse hammock, which has been removed and replaced by these commissioners, and Thomas Crockett said that he was willing to make oath to the best of his knowledge, that he stood within ten feet of the line of the state; there was no stone there then, and then David Tyler afterwards had the stone put where Thomas Crockett said the line was; I was at the court of Princess Ann, where two vessels, one named Amelia Ann and the other the Edenton, one belonging to John Marshall, and the other one to Tubman Evans, were tried for dredging in the Maryland waters, and I heard Thomas Tyler testify in court on the trial of those two vessels, and he said that his father at one time in that day owned Horse hammock, and he wanted to know where his bounds were, and he sent for Thomas Crockett as I have described; the trial of these two vessels were some 4 or 5 years before the trial of the Fashion, and they were condemned, but I don't know where they were charged with dredging at; I believe the large stone in the thoroughfare was put there, from what I have heard and from the size of the stone to mark the boundary line between Maryland and Virginia; I have heard of another stone on the east side of this island, at about 100 yards this side of the Barn point, but I have never seen it; I think the west side of this island has not washed more than 70 or 80 yards since the war of 1812.

Examined by Mr. Jones.

I have heard of several lines between Maryland and Virginia across Smith's island, but have known of but two; those two which I have described were the only ones on which I have seen stone boundaries; the distance north and south between the two stones, the one in the thoroughfare and the other described by me; I don't think more than 1½ miles; I don't mean that distance from stone to stone, but the distance from the line of latitude of the one to that of the other is about 1½ miles, I think, without having measured; I never heard Tommy Nelson at any time say that he had ever been on a survey at any time on Smith's island.

SEVERN BRADSHAW.

CRISFIELD, May the 30th, A. D., 1872.

The commissioners, pursuant to adjournment of their meeting at the house of Johnson Evans, at Horse hammock; on yesterday, Wednesday, the 29th inst., met this day at the telegraph and railroad office in Crisfield, at 10 o'clock, A. M., and proceeded to take the depositions, as follows:

Present—Thomas K. Wheelton, justice of the peace for the state of Maryland, and county of Somerset: and Hon. I. D. Jones and William J. Aydelotte, on the part of Maryland; and Hon. D. C. De-Jarnette, Col. William Watts and Henry A. Wise, on the part of Virginia, commissioners.

Captain William Sterling was first called, sworn and examined.

I was 61 years of age the 30th day of November last; I was born at the old Sterling place in Little Annamessex, and have lived there and near there ever since; I own land on the westward side of Ape's Hole creek, and on the east side of the road leading from Crisfield, or from the Asbury Church to the Hole, down to the Hole; I am the son of John Sterling, and his father was named Travis Sterling, and his father was named John Sterling, I think, but am not positive; I recollect my grandfather Travis very well, having lived with him until

he died; he was 85 when he died, and has been dead 45 years, I was about 16 years of age when he died; he said he had always lived in Little Annamessex; I have heard him speak often about the condition of the islands from Cedar straits to Watts' island, especially of the middle marshes; he said that they were once an island, and also the middle ground was an island; neither was an island in my recollection, both being washed away before my memory; I don't recollect anything he said about the other islands of the Fox island group, but I know myself that they have washed away a good deal in my remembrance; Cedar straits have not widened much, if any, in my recollection, as there is but little tide through them; the Fox islands have washed away some good deal, I can't say how much, on the western side, and remain about the same on the eastern side; I have been familiar with the waters on the coast of Foxs' islands, and between them and Watts' island, from my early boyhood; all on the western side of Foxs' islands there are numerous stumps, I can't say how large, and on the middle marsh bar, between Fox and Watts' creeks, I have often fished and found large stumps; the shoals in three, and four and five feet water, have stumps, but there are none in the channels, which in some places in the north end is fifteen feet water; I think it is all of that, but never measured, and in the middle channel there is not so much depth of water, but it is ten or twelve feet through; I know that Watts' island is a great deal smaller on the eastern side, being exposed to the northeast wind; I think on that side next the house, it must have washed away in my recollection fifty yards; there is no washing on the north end of Fox islands; there is a little island on the north end of Watts' island, which has been there ever since I could remember, and may have washed a little, but not much, if any; I never took much notice of the south end of the Fox islands; the south end of Big Watts' island has washed considerably; there is a thoroughfare between Big and Little Watts' islands which, I think, makes that wash, as there is considerable tide there; old Robert Parker married my grandfather's sister, sister of Travis Sterling, and was my great aunt; I was there about three years ago.

Examined by Mr. Wise.

I did not see the line run some years ago by Lieut. Michler, now Genl. Michler, but am informed and believe that it passed the house of a colored man named Severn Sterling, from one quarter to half a mile north of my store.

Examined by Mr. Aydelotte.

I have never seen any boundary marks of the line between the two states, west of the Pocomoke river, to the Tangier, and I have never heard of any.

Examined by Mr. Wise.

I never searched for any such marks, and I don't know of any person who ever did, and I know of no tradition of any line or marks of a line run from Tangier sound across the land and Pocomoke river; I don't recollect of ever hearing of a line run by Scarburgh and Calvert across the land from Oceanike sound to Pocomoke river; and I don't recollect of conversing with Mr. Wise, here present, in the fall of 1871, about the line run by Scarborough and Calvert, but I did converse with him then about the line run by Michler; I never heard of any line run by the two states north of Cedar straits, but all that I ever heard from the old people was of a line through Cedar straits, and I don't know what course it was said to have run from the straits; I do know Pitts' creek, and have been past it, and I have always been told that it was in Virginia, but whether it is or not I don't know; I never landed at Pitts' creek, but it is on the left bank of the Pocomoke river; I think that Pitts' creek is northeast from Cedar straits.

Re-examined by Mr. Jones.

When I first knew Cherrystone creek, in the county of Northampton, the eastward bar at the mouth was all fast land, and now it is all washed away, except an island below the woods.

WILLIAM STERLING.

Mr. Michael Somers was next called, sworn and examined.

I was 60 years old the 24th of this month. I was born in Little Annamessex, on a tract called Cherry Hinton, and have resided there until some ten years ago, and then moved eastward near Ape's Hole creek, on a tract of land called "Frustration." Cherry Hinton, nearly all of which I own, extends westward as far as the patent in your hand will show, and the copy of the patent certified by the register

of the land office of Maryland, exhibited herewith, dated the 20th day of April, 1682, for a part of a warrant to Colonel William Stevens, of Somerset county, in the province of Maryland, for 10,000 acres of land, dated the first day of March, 1680, describing the land called Cherrystone as lying between Annamessex river and Pocomoke bay, for 150 acres—a copy of which is hereto annexed. There also, a a like copy of the land called Frustration, for 40 acres, assigned to Francis Martin by William Whillington, out of a warrant for 2,700 acres to said Whillington, warrant dated 20th October, 1694, and the patent dated 10th March, 1695, describing a neck of land lying between Pocomoke bay and Annamessex river, and near to Watkins' point, as shown by the copy of the copy hereto annexed. Frustration extends to Ape's Hole creek. I have never run or seen run the lines of Frustration, but I have always heard that it ran to Ape's Hole creek, and not to the bay of Pocomoke. The course from my house to Pocomoke bay is southeast and east; I think that an east line from my house would strike Sykes' island; I live half of a mile southward of Lawson Shell's, where stands a wind-mill, and Lawson Stone's house stands on the broad water of Apes' Hole creek. The owners of the lands west of Cherry Hinton are, first, Mrs. Cullen, who lives on a place called Sterling's Goodluck; it belonged to my father; and there are Hamilton Moor's heirs, Mrs. Mason, a widow, and William Tyler, and that is about all, except the old Tyler family, the heirs of Littleton Tyler, west and southwest. They live, I think, on a tract called Price's Vineyard, but of that I am not certain. East of Cherry Hinton is a marsh where nobody lives; I own a part of it; Francis Sterling owned a part of it; it was called Cedar hammock, and belongs, I suppose, to his heirs; I own Oak hammock, a part of it, also Lapland, a part of that marsh. That marsh extends down to Pocomoke bay; the other lands don't extend to Pocomoke bay; it is all marsh on the Pocomoke bay. There is a tract of land called Watkins' point, northeast from where I live, and on the east side of Apes' Hole creek, which I have understood was formerly called Johnson's creek. I don't know the names of other lands further east on Pocomoke bay. I have never heard any tradition of any line having been actually run by any surveyor across the lower part of Somerset county, between Tangier sound and the right bank of Pocomoke river, before that run by Lieutenant Michler a few years ago, say in 1859. That line struck my house on Janes' island, and that house stood on a sand beach, always called Old Island Beach, now known as Riggin's island. The

lighthouse now stands on the end of the sand bar which makes out from that sand beach, immediately on the north point of the mouth of Little Annamessex river.

Examined by Mr. Wise.

I have heard of a line between the states of Maryland and Virginia which ran through Watkins' point, but whether the tract of land which is mentioned in the patent before referred to, called Watkinses point, is the point through which the state divisional line passes or not I do not know; I have heard of a line which called for Watkins' point; I don't know on which sound Pocomoke or Tangier sound it was located, but certainly it was the general opinion with us that it was the point on Pocomoke sound; I had heard of no other Watkins' point; that is all the reason that I had for believing that was the point called for by the divisional line; I never knew any mark to be placed on that tract of land called Watkinses point on the Pocomoke sound as and for a divisional line between the two states, and I have never heard any tradition of a mark or survey being made on that tract of land for such a line, except as I have stated that I had heard of a state line that was run or was to have been run forward from Watkins' point; I don't know what the size of that tract is, but the patent exhibited will show; Abraham Somers was my father; his father was named Benjamin, and further back I don't know; the name sometimes was spelled *Summers;* I spell my name *Somers;* Horsey Somers, of Accomack county, Virginia, was own cousin to my father.

MICHAEL SOMERS.

Mr. Hance Lawson was next called, sworn and examined.

Examined by Mr. Jones.

I was 47 years of age the 31st day of last Octobor; was born on a tract of land called Hill's Folly, between Little Annamessex river and Pocomoke bay; I now reside at the same place within 200 yards of where I was born; I own part of a tract called Bay Bush Hall, and part of a tract called "Agreement;" Agreement joins Hills Folly on the northeast, and Bay Bush adjoins the same on the south; some of Littleton Tyler's heirs, and heirs of Hamilton Moore, and David Bird,

and Thomas Bird, and widow Mason and lots of others live on Bay Bush Hall, and not on Price's vineyard as Mr. Somers supposed.

[Here Mr. Jones exhibited a certificate from the land office of Maryland signed by George G. Brewer, register of the land office of the United States, for a tract of land called Hill's Folly surveyed for John Hill, the 18th day of August, 1672, and patented to him the 24th day of June, 1673, a copy of which is hereto annexed as an exhibit. It calls for 150 acres on Back creek near the mouth of Little Annamessex river.]

Mr. Lawson continued, and said:

This creek was called in the patent Back creek, and now is called Jenkins' creek. [Mr. Jones then presented a copy of a patent for a place called Bay Bush Hall, containing 100 acres, dated 6th of April, 1682, warrant for 10,000 acres, as already stated, and herewith exhibited.] Mr. Lawson stated that this patent was for the Bay Bush, already mentioned by him. [Mr. Jones then presented a certificate of a survey, dated 1st June, 1683, and patented 1st day of June, 1685, for a place called Mickle Meadow, 300 acres, a copy of which is herewith exhibited.] Mr. Lawson states: I know of a Mickle Meadow, which I believe to be that of this patent, adjoining on the south side of Bay Bush Hall, and is south side of the mouth of Back creek, now called Jenkins' creek. The Cedar straits have been washed away considerably in my recollection, on both sides; I mean the straits have widened, say, as near as I can recollect, fifty yards, more or less; the Little and Big thoroughfares between Fox's islands and Watts' island, have widened considerably in my memory; I hav'nt been there for over two years; the Little has widened less than the Great thoroughfare; after passing Cedar island marsh, we come to Cedar straits, then to a point of marsh which is now an island, that was formerly attached to Big Fox's island; then to Big Fox's island; then to the Little thoroughfare; then to an island which was called, I think, Little Fox island; then to the Great thoroughfare; then to an island of marsh, the name of which I don't know, it may have been Little Fox's island, I don't know; then the marsh continues, so that I cannot describe the islands of marsh, and the little thoroughfares, I don't know how far; but from the last island of marsh to Watts' island, is a considerable sheet of water, two miles wide, more or less, in which sheet I do not know whether there is an island or not, but do not think there is an island,

and in this sheet of water is the middle channel, and the north channel, from Tangier to Pocomoke sound; I know that the thoroughfares from Cedar straits to Watts' island, have been gradually widening since my memory; I was generally acquainted with the old people who lived in this neighborhood, and have died since my memory; I knew King Nelson, and he resided not more than a quarter of a mile from where I now live, on the north side of Back or Jenkins' creek; I think his reported age, when he died, was from 90 to 100 years, but he did not know his own age, but he was a very old man; I think he died 15 to 20 years ago, and he was the son of Zachariah or Sacker Nelson; he was always esteemed highly, as a sober, truthful and correct man; I heard him say that his father was on Fox's island during the revolutionary war; his father lived there, so he said; he told me that he lived on Fox's island in time of the war; I never heard of his being a revolutionary soldier; I never heard from him, or any one, that he was or was not a revolutionary soldier; I know James T. Evans, an old man who stutters, on Smith's island; I think he once lived on old Janes' island, some 12 or 15 years ago; I know his general reputation on Smith's island and elsewhere, and in this neighborhood, for truth and veracity, and I don't think it is more than No. 1, and I don't think he stands very high for truth and veracity, he don't, at all events, with me, and not generally for truth and veracity; it is bad on Smith's island, where he lived; never heard any tradition of any line having been run by any surveyor across the lower part of Somerset county, between Tangier sound and the right bank of Pocomoke, before that of Lieutenant Michler a few years ago.

Examined by Mr. Wise.

I never heard of the character of James T. Evans being impeached in any court of justice. I never knew any person but myself to impeach his character for truth and veracity, on oath, and I did not know that I would be asked the question under oath. I have heard a great many, not under oath, say that he would tell untruths. I have heard David Tyler, on Smith's island, say so; I have heard Hainey Bradshaw say so: I don't remember hearing the names of any other person I have heard say so, but have heard it generally reported by a great many; I mean by great many, several persons, I don't know how many; I don't know that I can name any others besides David Tyler and Hainey Bradshaw; I have never known him to be a witness

in court, and never heard him testify in court. In a case where he is not swayed by interest I would believe him under oath. I don't know that the man would swear to a lie anyhow, interest or no interest, but I have heard a number say that he would tell yarns. I don't know that I ever heard any one say that he ever told a malicious or mischievous lie; but by yarns, I mean that I have heard he would tell untruths. I have never heard the tradition of a line run by Philip Calvert, of Maryland, and Edmund Scarborough, surveyor general of Virginia, across the land from Watkins' or any point on Janes' island, strait and east line, across Pocomoke river. I never heard that they had run any line on the Eastern shore, between Maryland and Virginia; I have heard only of the Michler line; I have no knowledge or information of any marks of boundary line between the two states from Tangier sound across Pocomoke river; I have heard rumors of marks of a line on Smith's island; have heard more about it since this thing came up than ever before; I have paid no attention to a boundary line, to search for one; for I believed there had been no line established between the two states. I never heard of any marks of a line from the old people on Smith's island; I have heard that John Marshall, who lives on Shanks' island, was in Virginia, and paid his taxes in Virginia. I never searched for any marks of state boundary anywhere.

HANCE LAWSON.

Mr. William Nelson was next called, sworn and examined.

I was 64 the 23d day of last February; I was born just below here on Jenkins' creek; I am the son of Thomas Nelson, usually called King Tommy Nelson; he died about 16 years ago; I don't know his age; he did not know it, but said he was from 90 to 100 years of age; heard him say that he was born on Fox's island; his father's name was Sacker Nelson; my father said he lived with his father, Sacker, on Fox's island; I don't know what time. In the revolutionary war they remained there until they got their house burned down by the British; he said that he and his father had to escape from the British by running into the bushes, or marshes. After that they moved to the main north of Cedar straits. He first moved to a place called Matthews creek, and after, he moved to the hammock down here, where Billy Lawson lived, on Jenkins' creek; he remained there until he bought a little lot up higher on Jenkins' creek; my father said that he was

stout boy and merely fit to go into the army, and therefore had to skulk about to keep from being impressed by the British. I never heard him say that he was a soldier on either side in the revolutionary war, but on the contrary he said he was not in the army. I have heard his father say that he heard his father, Sacker Nelson, say that he had seen the time when he could take a twelve foot fence rail and walk all the way from the main land across Cedar straits to Watt's island. I never heard my father say anything about being on a survey of any line on Smith's island; never heard my father say anything about a state line on Smith's island; have never heard of any tradition from anybody of any line having been run by any surveyor across the lower part of Somerset county between Tangier sound and the right bank of Pocomoke river before Michler's survey. I am not much acquainted with James T. Evans, on Smith's island, knew him when he lived on Jane's island, but saw him very seldom, and heard nothing of his general character.

Examined by Mr. Wise.

I never heard of any line being run from Tangier sound across Somerset county and Pocomoke river, by any one, surveyor or not, until Michler's survey. I was with him two days, from here to Jane's island to Benny Thomas' house, right back of it, say 100 yards where the post put up by the coast survey was. I started with him, Michler, to go over to Smith's island, but a storm prevented and he did his work on Jane's island. I am told the line came out here at James Tawes' house, a little north of it. That line was run before the Crisfield or Eastern shore railroad was constructed. I don't know whether that line touches the end of the railroad wharf or not, as I never sighted it. I never heard my father say anything about a state line on Big Fox island running near a tree on that island; my father never showed to me any tree, a gum or other tree, on Smith's island as a boundary line tree between Virginia and Maryland, and I never heard him speak of such a tree; have never heard of any state boundary marks on Smith's island. I was not mistaken in hearing my father speak of Watt's island for Fox island when he said that his father told him he had seen the time when with a 12 foot fence log he could walk all the way from the main at Cedar straits to Watt's island. I suppose it is now five or six miles from Fox's island to Watt's island. I suppose it has been that distance ever since I could remember, only

excepting the washing away. I think it has washed away about 200 yards at the south end of Fox islands; I don't know how much it has washed away on the north end of Watt's island; I was never there but twice in my life, and know nothing about it; have heard my father say that the washing away on the west side of Fox's island was very considerable; in going with him in a canoe opposite where the house was he showed me the place in the water where his father's well had been, and then it was 150 yards or more from the shore. My father had no education, and I have a little; John Nelson was the son of King Nelson, and about 77 years of age when he died about 5 years ago.

WILLIAM NELSON.

Mr. Thomas W. Dougherty was next called, sworn and examined.

I was 54 years of age the 22d day of last December; I was born about 2½ miles from this place, and resided in this neighborhood ever since I was born; I think Janes', and Cedar island, south of Janes', which two islands form the mouth of Little Annamessex, have washed away all along the sound shore, 200 yards in my remembrance; have heard of no line run by anybody across the lower part of Somerset county, between Tangier sound and Pocomoke, except the line run by Michler; I have known James T. Evans on Smith's island; he is a cousin of mine.

Examined by Mr. Wise.

The southwestern point of Janes' island is the North point of the mouth of Little Annamessex river; that point has washed away a good deal; I have heard Nathaniel D. Dougherty say that there was a peach orchard on the old Janes' island, and as good a well of water as was in Annamessex. This whole neck of land, consisting of several parts, including Janes' island, was called Annamessex—say from Kingston down to Cedar straits or Pocomoke sound. The channel of Little Annamessex has not changed in my remembrance. I followed the water for 30 years up to the last 3 years.

THOMAS W. DOUGHERTY.

HORSE HAMMOCK, SMITH'S ISLAND,
May 31st, A. D. 1872.

The commissioners met at this place this day, pursuant to adjournment on yesterday at Crisfield.

Present: Thomas K. Whealton, justice of the peace for the state of Maryland, and Hon. I. D. Jones and William J. Aydelotte, commissioners on the part of Maryland, and Hon. D. C. DeJarnette, Col. William Watts and Henry A. Wise, commissioners on the part of Virginia, and proceeded to take further testimony.

Francis Evans was first called, sworn and examined.

Examined by Mr. Wise.

I am 64, and in my 65 years of age; I was born on Smith's island, on Rogues point, which lies about a half mile below or south of the thoroughfare called Mister's thoroughfare, towards the north end of the island. My father was John, and grandfather Francis Evans; they both lived at the same place; I have heard some say the line between Maryland and Virginia was on the north part, above Horse hammock, the Great island, about a mile from this house, and others said it was below Horse hammock. I have been shown a big stone, last winter, by James T. Evans, at Beaver hammock; I was shown a gum tree, by Severn Bradshaw, when we were boys, at Cow hammock, which he said he was told was a line tree between the two states; the tree stood sometime after that, I don't know long, but I think I could go very near where it stood, as I had seen it often; I never examined it particularly for any marks; I can't say how old I was when I first saw it, but I can state how Severn Bradshaw came to show it to me: We were about the same year's children, or the same age, and we were on what is called Cow hammock or Cow ridge, or Orchard ridge; it was called by all three names; the gum was on Cow ridge, now owned by Severn Bradshaw; the reason we were there together was that we were fond of bird-egging, and were at the time; there were a good many trees on it then, and there are some around the hammock now; it is cultivated now by Severn Bradshaw; I can't say how long the tree has been down; it was located rather at the lower end, but pretty much in the middle of the hammock; Severn Bradshaw did not tell me how he knew it; I have heard other people talk of it as the line;

I have also heard of, and seen, a slab-like stone, a large stone, in the water, about 15 or 20 yards more from the edge of the marsh on Beaver hammock, in Mister's thoroughfare, on the north side of the thoroughfare, easterly from Frog island, which is the one shown me by James T. Evans; I never was shown, or heard of any tree or stump or stone or other mark of a state boundary line on the lower end of Smith's island, south of Horse hammock, but I have seen Gum island, where it was said the gum, whether a tree or island was the name I don't know; it was the place of John Parks' residence; I never saw any mark there; it is the place where John Tyler now lives; I don't know whether that place lies north or south of this place; I have heard there is a stone at Barn point from those who live there; this I heard for the first time last winter.

Examined by Mr. Jones.

Severn Bradshaw told me that the gum on Cow island was a mark of the line between Maryland and Virginia, not that it was a line run between man and man; Severn Bradshaw is here present, and says he don't doubt my statement, but don't recollect the time, nor do I, but it was more than 40 years ago.

his
FRANCIS ⋈ EVANS.
mark.

Mr. Severn Bradshaw desired to be re-examined, in order to state matters which he forgot and omitted to state when first examined. He said:

There were two large gum trees, and the only two large gum trees on the island at the time, the one stood on the Orchard hammock, where I live, as described by me the other day, the other on Sassafras hammock, where Tubman Evans lives; I recollect both trees well; the tree where I live showed more visibly on the Chesapeake bay side, and the other, on Sassafras ridge, showed more visibly on the Tangier sound; we, on the upper part of Smith's island, thought the tree where I live was the state boundary mark, and the people on Little Annamessex thought that the tree on Sassafras hammock was the mark of the state boundary line; the one at my house was marked with several notches on the south side, of this I am positive; whether

the one on Sassafras was marked or not I don't know; I don't recollect whether there were any notches on the north side of the tree at my house; Sassafras is northwest of Horse hammock a considerable distance, and I can show it to you, it went by the name of Tyler's gum; both trees are now gone. I omitted to state fully, being hurried, all that I now recollect about what Tommy Tyler said on the trials of the vessels Amelia Ann and Edenton. In addition to what I have already said, he stated: that the line between the states of Maryland and Virginia, his uncle, Butler Tyler, told him was run twice in his recollection; that he was said to be 100 years old when he died, and he has been dead at least 45 years; I have seen him, was nearly grown when he died, and was at his funeral; Tommy Tyler said that Butler Tyler had told him that at one time the line run through his yard, at Black Walnut point, and at another time it ran a little below Dunn point on Tyler's creek, making a difference between the two lines of about 300 yards; this is all I have to add; I do believe that one or the other of these two lines has been recognized by the people on this island for more than a century back.

Examined by Mr. Jones.

My father owned where I live at Orchard ridge; he made a will and devised it to me, and I was the first who built a house on it; my father's name was Jacob Bradshaw; the gum tree stood south of my house about 125 yards; my father's will is recorded at Princess Ann, the county seat of Somerset county, Maryland, and he lived on another part of the same land, south of my house and the gum, at a place called the "Forked Oak," and I know where it was said to have stood; it is about four and a half miles northwest of this place; that place is open to the bay, and it is not washed away badly; the Orchard and Cow ridges were once the same, I think, and are now separated by a small drain; the Orchard ridge is on the east side, and the Cow ridge is on the west, they lie together, nearly together, north and south, at the western mouth of the Mister's thoroughfare, which mouths into the bay; the Forked oak was on Cow ridge, and a round cedar post, marked with four notches on each side, was placed where the oak was said to have stood, to mark a private boundary; about three or four years ago, the cattle broke the post off by rubbing against it; my father always paid taxes in Somerset county, Maryland, and so have I; that is north of where Butler Tyler used to live, all of two

miles; thirty or forty years ago, there was scarcely any talk about the line of the two states on this island; the taxes were small, and the oysters in the bay were not counted of great value, and we oystered in the creeks, but since dredging commenced, about 20 or 28 years ago, oysters have become valuable, and people began to look more closely after the line of the two states; I, among others, have looked more closely to where the line is; I used to think but very little about the lines of the states; my business was to get oysters when I could, in Virginia or Maryland, and I was not interrupted; since that time I cannot do so; a man can't tell now-a-days, on this island, whether he is in one state or the other; my father and I, and the people up there, voted and acted as if in Maryland; the first election district on this island, was laid off, called No. 12, about 40 years ago, and before I was a voter, as I think; then it was held at the Old Church, where I live, by Solomon Evans and John Tyler, who lived at this place, and old Captain John M. White; after a few years, the district was abolished, and the voters had to go to Bunkly's, on the Annamessex; the election district on this island was re-established in 1853, and is now district No. 7; the first and present district are of the same bounds, both including Horse hammock, and the proprietors and residents of Horse hammock have been from first to last judges of election; I myself have been judge of election, and clerk of elections, and for four or five years past have been register of voters, and I have been a justice of the peace for Maryland for two years; the first registers of voters on this island, for Maryland, were David Tyler, Hainey Bradshaw, and William Evans, of John; then John Evans, son of Johnson, lived here at Horse hammock; I think he was registered as a voter; I was register of voters last fall, and think John Evans, residing here, was registered and voted; there have been four public school places of Maryland on the island; the first was north of the Thoroughfares, one at Rogue's point, west northwest from here, and one at Oak hammock run, Aleck Tyler's store, northwest of this place, and there was another on North end, north of this place; there was no school either at Horse hammock or south of it; generally the children at Horse hammock have attended the public schools of Maryland; there have never been any voters registered in Maryland, south of Horse hammock, and none due west of it; some at Dunn point, and some on Hog neck, have been registered in Maryland, none south of Horse hammock; and none have been registered as far south as Horse hammock, except those at Horse hammock; I have considered the vo-

ters on the upper end of Hog neck, as far south as John Tyler's residence, to be in Maryland.

Re-examined by Mr. Wise.

I do not know whether the proprietors of Horse hammock voted in 1833, in 1835, in 1837, 1839, 1841, 1843, in Virginia for a member of congress or not; I believe that all the old residents on this island used to think that Horse hammock at this house we are now in was in Virginia. I know that some have said Horse hammock was in one state and some in the other, but I have heard the old people say generally that it was in Virginia. I have heard that old Uncle Solomon Evans had John Tyler then living here made a magistrate, about 1835. I have no knowledge of Horse hammock ever being claimed for Maryland before that time. I am a member of the Methodist Episcopal church, and sometimes conduct the services at our church as an exhorter.

SEVERN BRADSHAW.

Benjamin Bradshaw was next called, sworn and examined.

Examined by Mr. Wise.

I am about 48 years of age; I was born just above where Alick Tyler's store is; I now live on Drum point on Tyler's creek; I have found a stone at the mouth of a little creek near "The Barn," a point so-called as I am told; the stone is in the water, about knee deep, about 40 odd feet as measured by my canoe, from the shore; it appears to be in three pieces, it is joined all together, and is so in the mud that I cannot say whether it is one stone or not; the whole as it appears seems to be as big as this table, about 3 feet square; not exactly square, but rather diamond shaped; its color is light, but it is covered with mud, and I cannot say positively what its color is—the bottom is a sticky clay; there are stumps around it, some right big ones and some small ones; I can't say of what wood; when the commissioners were here last fall we were talking about the stones at the church, and it was thought best to stake them off when found. Albert Evans told me then where to look for it at "The Barn," but I did not search for it then. Day before yesterday Mr. John Tyler told me that you, Mr. Wise, desired to find it, and I searched for it yesterday and found it

as I have described. I can't say how far it is down in the mud; it was knee deep from the top of the stone, but at low water to-day will be nearly bare. The stone in the Mister thoroughfare, south of Troy island at Beaver hammock, I saw myself 25 years ago. I never was told, and inquired whether it was a boundary mark or not. I know nothing about the line of the state; have seen the Beaver hammock stone often since I first saw it.

his
BENJAMIN ⋈ BRADSHAW.
mark.

Mr. Stephen T. Deis was next called, sworn and examined.

I am 29 years of age; born on Smith's island, at a place called North End, where Laban Evans now lives, north of this place about 3 miles; Caleb Evans, Captain John Evans and myself were catching terrapins the other day, and we came across a large stone in the water near Cow hammock—some call it Cow ridge; I first saw it, and we went back to it, and we looked at it in about 2 feet water, the tide up; I think it is from 6 to 8 feet long, and about from 4 to 5 feet across it; it was full of oysters and moss, and we couldn't tell what sort of a looking stone it was; it was surely stone of some kind. It is about a northwest course from here, and a west course from the stone at Beaver hammock. It is just off Cow ridge, on the southern side of Mister's thoroughfare, on a hammock just north of Hog Neck, and separated from what is now called Hog Neck, where Captain John Tyler lives by a small thoronghfare, about a mile above where Captain John Tyler lives. I have got marks for it and can go to it at any time; did'nt see any stumps exactly around it but some outside of it, I guess in 15 or 20 yards of it in the water. The stumps were about a medium size. We were about the stone and stumps about a quarter of an hour. I know nothing of the state line, have heard some talk about it. All of our people, the oldest, said it was somewhere about the Mister's thoroughfare. I can't say how deep that stone was sunk in the thoroughfare. This stone was about due west from the stone at Beaver hammock.

Examined by Mr. Aydelotte.

I had no instrument by which to judge of the course, but I am a sea-faring man and have always been following the water, and can use

the compass as well as any man, and I can judge of the course. I judged by the mouth of the Potomac, and an east and west line cuts the mouth of that river and Mister's thoroughfare. That thoroughfare is opposite, on an east conrse to the mouth of the Potomac. The stone at Beaver hammock is near the southside of Mister's thoroughfare, and on the north side of the Big thoroughfare, at a place called the Bottom. I have heard of a stone at "The Barn" point, many years ago, ever since I was a boy, but have never seen it. "The Barn" from the stone I have found in Mister's thoroughfare, is about east though I have never sighted the course by the compass. I can see the mouth of the Potomac from the mouth of the thoroughfare, both points of the river, and I have sighted it before with the compass. I can write but little and prefer my name to be written.

his
STEPHEN T. ⋈ DEIS.
mark.

Mr. Johnson Evans was next called, sworn and examined.

I am 58 years of age; I have been off and on living at Horse hammock about six years; I was born on Smith's island, and have been living thereon ever since; I bought this place, called Horse hammock, from John Marsh, he bought it of his father-in-law Peter Evans, Peter Evans bought it at auction, at a sale under a mortgage deed from John Tyler to Peter Evans, about 27 years ago; since I bought it, I paid taxes in Maryland, and my son John, who was joint owner with me of the place, paid his taxes in Virginia; I have heard, that about 45 years ago, taxes on the place were paid in Virginia; I have heard that John Tyler, when he owned it, paid in Virginia, but for the sake of being a magistrate in Maryland, he paid his taxes in that state; Peter Evans, I am told, paid his taxes in both states; Peter Evans now lives at Chescomessex creek, in Accomac county, Virginia; I have heard that Horse hammock was always considered in Virginia, until John, called Jacky Tyler, was appointed a justice of the peace in Maryland; I have heard, for many years, of a stone on the east side of Smith's island, about three quarters of a mile or a mile north of this house at Horse hammock, at which children, John L. Tyler, William Tyler and Thomas Tyler, had been taken, when young, and one or more of them whipped, and one or more ducked, to make them re-

member it as a boundary stone—a boundary of what I don't know, whether of two states or two owners of land, I don't know; I can tell of the stone in the Mister's thoroughfare; Captain Orney Browne, of the Tredegar tug, sent me a paper with a drawing of the two stones on it, of the one taken up by you commissioners, the other day, and of the Thoroughfare stone, and I was looking at the paper when Captain Henry Dies came up, and I enquired of him whether he knew of any such stones, he replied that he did, and the following Monday morning, he, and Albert Evans and I, went to the stone in the Thoroughfare, and he said when he first saw it, it was not broken—he went to it directly; when I saw it that day it was broken into two pieces—about 18 feet feet apart; I think it was broken by the ice, but don't know; last fall, in October, I went with Mr. Wise, Mr. Aydelotte, Captain Browne, Captain Drummond and others, to the stone a mile or so above Horse hammock, and showed it to them, and they cited it by a compass; the same day, we went to view the stone in the Thoroughfare, but the water being very thick we could not find it then, but it was found last week in two pieces, as I have described. The other stone, at Cedar hammock, was taken up last week, and examined and replaced in the spot where it was taken from; that was the same stone, at the same place where I saw it three years ago.

Examined by Mr. Aydelotte.

I have no knowledge of what the true boundary of Virginia and Maryland is on Smith's island; I have doubts that the stone removed the other day is the boundary stone between the two states, and don't believe it is now; I have heard my grandfather Parks say that at one time the state line ran between his house and kitchen, about 18 feet apart, at the place where John Tyler now lives in Hog neck, and that place is in a line with the stone which was removed the other day, but I was told afterwards that Tommy, called King Nelson, was on the island at the church at one time, and told the people then there that the state line ran through the Mister's thoroughfare; I supposed that the stone and John Tyler's house would show the line between the two states, but my belief now is that the stone in the Thoroughfare marks the line between the two states, because it is the big stone, and King Nelson staked the line ran through the Thoroughfare.

Examined by Mr. Jones.

The stone we removed is the beginning bounder of the land sold by Marsh to me, as stated in the deed, and also in the deed from John W. Evans to me; I sent both the deeds to Princess Anne, in Maryland, to be recorded, because I did not want to pay taxes on the land in both states, and I saw no prospect of when the line between the states would be run.

his
JOHNSON ⋈ EVANS.
mark.

Mr. John Tyler was called, sworn and examined.

I am 43 years of age; I live in Hog Neck, at the place where old Mr. John Parks lived, which is north of a west line from this place. I have always thought since I have lived there that I lived in Virginia; I pay taxes in both, because I am called on to pay taxes in both because the line as I have always heard runs through my yard; I have heard that from my earliest childhood; I have heard that it was in old times the place where runaway marriages were celebrated; the ones from Maryland were married in the kitchen, which was in Virginia, it is down now, and the ones from Virginia were married in the great house, that being in Maryland. None have been celebrated there in my day; Joshua Thomas usually married them; I know but little about the line; I have voted here on this island for candidates for office in Maryland; I went to the polls and voted for Mr. Commissioner Waters for clerk of the circuit court of Somerset county, Maryland, and my name is on the register's list, but I never applied to be registered; and I have voted at Tangier island and at Onancock, in Virginia; in 1855 I voted for Mr. Flournoy against Mr. Commissioner Wise, of Virginia, for the office of governor of Virginia; I was a Know-Nothing then; I now take out my oyster license in Virginia; I saw the stone above Barn point about 15 years ago; I never heard of the stone at Beaver hammock until within the last few years.

JOHN TYLER.

CRISFIELD, EASTERN SHORE, MD.,
MONDAY, June 3rd, 1872.

The commissioners met at this place this day, in pursuance of the adjournment on Friday last.

Present: Thos. K. Wheelton, justice of the peace for Somerset county, Maryland, and the Hon. I. D. Jones and Levin L. Waters, Esq., commissioners on the part of Maryland; and Col. Wm. Watts and Henry A. Wise, commissioners on the part of Virginia, were present. Absent: Mr. DeJarnette, of Virginia, and Mr. Aydelotte, of Maryland. They proceeded to take the following depositions, to-wit:

Mr. Henry Dies, of Crisfield, Maryland, was first called, sworn and examined:

By Mr. Wise.

I am between 57 and 58 years of age; was born on Tangier island; in 1835 I moved to Smith's island, and lived there until February last, except 3 years; the name of my father was Daniel Dies; he died about 17 years ago, aged about 70 years; my mother's maiden name was Esther Parks, a daughter of Toby Parks, who was my grandfather; he lived on Tangier island; I moved to the place on Smith's island called North End, southeast from the church close upon the thoroughfare; I knew old Mr. John Parks, a brother of Toby Parks, my grandfather; he was my great uncle; Mr. John Parks lived on a place called Hog Neck, on Smith's island; John Tyler lives there now; I have heard in time past from the old people on Smith's island, that when the people on that island desired to be married from the state of Maryland, that the Rev. Joshua Thomas, who was in those days a Methodist local preacher on that island, would meet them at that place, and marry the couples of Maryland in the dwelling house of my uncle, John Parks; and when any couples from Virginia desired to be married, he would meet them at the same place and marry them in the kitchen, that being then considered in Virginia. I do not mean the runaway couples but those who were regularly married according to the laws of their respective states; I don't recollect of ever hearing of any gum or other tree at that place, marked or recognized as a state line; the house and the kitchen were from 20 to 30 feet apart, more or less; Joshua Thomas was the standing, well-known clergy-

man who performed the rites of marriage ceremonies on that island; I have heard of his biography published in Philadelphia, and written by Rev. Adam Wallace; I have handled the book. About from 1835 to 1840, I was gunning in Mister's thoroughfare and ran my skiff upon the top of a pretty large stone, near the edge of Beaver hammock marsh; I think when I first saw it it was not further from the edge of the marsh than 15 or 20 feet; I saw it several times afterwards, but never noticed it again particularly, until, I think, year before last; when I first saw it it was in the water, and I saw but one piece; and when I saw it in the year before last, it was in two pieces; the pieces were, I think, from 10 to 15 feet apart; it may have been that when I was first there that there were two pieces then, but I saw but one then, and two afterwards as I have said; the last time I saw them they seemed to have been broken the one from the other, for they looked to be of the same quality of stone. I never saw the one or two at low tide when bare. Mr. Johnson Evans, of Horse hammock, year before last brought to me a paper which had a written description and drawings in pencil of the shapes of these two stones, and he inquired of me whether I knew where to find two such stones; I showed him where they were and found both; but that was the first time when I knew there were two at that place. They are about south by east from Troy island, about half of a mile. The only other stone besides these two was that I knew of is that lying from a half to three-quarters of a mile north of Horse hammock house, at Cedar hammock. I first knew of that last mentioned stone in 1840, I think; there was an old man named John L. Tyler, he said he was called on a line there, whether between the states, or between private individuals who claimed the land, I don't know; but he said he was a small boy, and he was too small to whip and he was ducked; he was thrown into the creek and thought they were going to drown him, to make him remember the boundary. He was then about 40 to 50 years of age when I heard him say this, and has been dead all of 15 to 20 years. He was the father of Aleck Tyler, and lived at Oak hammock, where Alexander Tyler now lives. It is near Black Walnut point, to the north of it jam by a wind-mill. Drum point and Black Walnut are pretty much alone; there is another Drum point on the northeast end of the Smith island. The east and west line which ran between John Parks's house and kitchen would pass in say 100 yards from Parks's ditch which is south of Tyler's ditch, and it would pass in say one-

quarter of a mile from Walnut and Drum points, in one-quarter of a mile south of them.

Examined by Mr. Jones.

The place called Pittscraft, my old uncle Laban Evans, told me laid south of Mister's thoroughfare down to the Maryland and Virginia line; Cow ridge, I think, as it was then called, laid east of Levin's creek, which empties into the Thoroughfare to get into the bay, and its mouth is about a mile from the bay; the Cow ridge lies between Levin's creek and the Thoroughfare, to the eastward of Levin's creek, and south of the Thoroughfare; it is a long ridge.

his
HENRY ⋈ DIES.
mark.

CRISFIELD, E. S., MARYLAND,
June 4th, 1872.

The joint commission met this day, at this place, pursuant to adjournment on yesterday.

Present: Hon. I. D. Jones, William J. Aydelotte, Col. William Watts and Henry A. Wise, Esq., and proceeded to take the following depositions:

Mr. Edward Tawes, being first affirmed, was first examined.

Examined by Mr. Jones.

I am near 51 years of age; I was born in the lower end of Little Annamessex; from Janes' creek down towards Cedar straits, and south of Little Annamessex river, is called Little Annamessex, to distinguish it from the section north, between Big and Little Annamessex, called Big Annamessex; I have lived in Little Annamessex neck ever since I was born; my first occupations were those of a mariner, and catching, and buying and selling oysters; I ran oysters first from York river and Cherrystone, and afterwards from Apes' Hole creek and Little Annamessex river; from my earliest recollection to about six years ago, the people north of Pocomoke, at Apes' Hole, have always oystered north of the channel of the Pocomoke sound, without being apprehended; there never was any strict attention paid to where oysters

might be caught on either side of the line between the two states, and no one catching oysters was apprehended or disturbed, until the dredging laws of the two states began to be enforced; Tommy or King Nelson, I have heard say that his father, Sacker Nelson, owned Fox's island, and he, Tommy, was born on Fox's island; he said his father told him the islands of Fox's island groupe, were once nearly all joined together, down to the southernmost point of those islands, now called South End; he said he told him he thought he could have taken a fence log and walked from Cedar straits to South End, so called; he also said that his father stated there was in his day a marsh island between the south end of Fox's island and the north end of Watts' island; he said it was washed away; I have fished around Fox islands a good deal in the season of fishing; on the Tangier sound side they have washed away a good deal; all the islands wash most on the western sides; I lived near King Nelson all my days, and in about 150 yards of him during his latter days; have heard him say, about the time the dredgers were first taken in Pocomoke sound, say about from 20 to 25 or 26 years ago, that the line between Virginia and Maryland ran right across Fox's island, close by where old Johnny Mason's house stood, the father of Middleton Mason, who moved to Onancock, in Virginia; he told me that the well his father used water out of, off his residence on Fox's island, was then, at the time of his statement, about 150 yards on the west side, in the water; I have never heard of any tradition of a line run from Tangier sound, north of Cedar straits, to the west bank of Pocomoke river, nor have I heard of any marks of any such line across the Little Annamessex neck; I have heard only of the line named to me by King Nelson, across Fox's island.

Examined by Mr. Wise.

Tommy or King Nelson, told me he lived on Big Fox island; it was on the western side of that island where the well was, spoken of as in the water; and Johnny Mason, the father of Middleton Mason, lived, I think, about the same place on Big Fox's island; there is an island north of Cedar straits, and north of Big Fox's island, called Cedar island marsh; the ledges and muddy marsh, are to the east of Big Fox's island; the southern island of Fox, is called Little Fox's island; both Big and Little Fox islands are now cut through by the waters, making as many as four islands where there were but two; the Big

thoroughfare, when I remember first, ran as it does now, between Little and Big Fox island; I did'nt catch oysters, but I bought them in Cherrystone and York river; I never heard King Nelson say that with a fence log he could have walked from Fox's island to Watts' island, or say that his father said so; have never heard of a line run over 200 years ago across the Pocomoke, from Tangier sound to the ocean, by Scarborough and Calvert; I have heard of a line between Virginia and Maryland, on the Eastern shore, but not across Little Annamessex neck; I have gone up the Pocomoke river, not very often though; I was never shown where the line crossed the Pocomoke; I know where Pitts' wharf is on the Pocomoke; Sykes' island is nearly, as I see from the coast survey chart, now shown me by Mr. Wise, is due east from Cedar straits, and the north part of Sykes' island is north of Cedar straits, Pitts' wharf is higher up so-called Pocomoke river than Sykes' island, and I don't know whether that wharf is north of Cedar straits or not; I don't know where the Virginia and Maryland line borders on the Pocomoke river, but I have heard that the line is somewhere near where the widow of John U. Dennis, dec'd, lives; I never heard of the Virginia and Maryland crossing the Pocomoke river, but I have never heard of a line between Virginia and Maryland, which touched the Pocomoke river.

Re-examined by Mr. Jones.

I have heard of Rock Hole creek, which lies on the north side of Little Annamessex, and of Sandy creek, which lies on the south side thereof, between it and Cedar straits. [See patent to James Gray, in 1701.] I know nothing of Persimmon hammock; I was never shown any state line marks on Fox's islands.

EDWARD TAWES.

Clement R. Sterling was next called, sworn and examined.

Examined by Mr. Jones.

I am either 64 or 65, born in 1807, 1st June; I think 65; born down the lower end of Little Annamessex, and always lived in that neck. I know nothing of Virginia and Maryland line myself, and only what I have heard folks say. I always heard that the line run from Horse hammock east to Watkins' point, across to Horntown or Chincoteague

or somewhere there, according to what the old people said. Michler was at my house 7 days. I went with him to Ape's Hole when he ran the line. Old man King Nelson I never heard say anything about the line; but have heard him talk about Fox's islands, and how far he could go with a fence log. I have heard him say that he could come all the way from Watt's island to Annamessex with a fence log, and jump across it. I heard him say there was a peach orchard on Jane's island, at the north point of Little Annamessex as far out as the bar, somewhere near where the light house now stands. I can recollect back about 50 years, and that point has washed away half a mile in that time. I never heard of any line being run except by Michler, and he began at the sea-side and came this way. I was with him at Somers' Cove and Ape's Hole landing.

Examined by Mr. Wise.

I was with him at Somers' Cove, whilst he was boarding at my house, and the line came out at James Tawes's house, at the head of Somers' Cove north of the dwelling, less than 50 yards north down to the landing.

CLEMENT R. STERLING.

(*Note.*—I am informed by Mr. Aydelotte that a patent ought to be found from Virginia for part of "*Long Point,*" owned by John Mason, the extreme northeast main of Accomack—a large body near to Sandy Hill, part in Accomack and part in Worcester county, Maryland—all now owned by Judge John R. Franklin, who now pays in both Maryland and Virginia.)

John Spence being next called, sworn and examined.

Examined by Mr. Wise.

As far as I know and am informed, I am in my 77th year of age; I will be 77 on the 25th day of December next; my age is not recorded; I was born in Hog neck, on Smith's island; I was born in a house owned by my uncle John Parks, and on the land where he resided, and he resided where John Tyler now resides; Hog neck ran up north to a creek called the head of the creek, which used to be my

boat harbor in the time of the British war; Hog neck laid north and west of South point; it laid north and south lengthwise the island, on the western side, east of Tyler's creek, on the Chesapeake bay; Tyler's creek is called by that name up to Sheep hammock; and thence it lies north up to Tyler's ditch; Parks' ditch lies to the westward of Tyler's creek; David Tyler and Butler Tyler, were the original owners of all the land of Oak hammock, Horse hammock, clean down to Dunn point, where Aleck Tyler and John Wesley Marshall, Thomas Bradshaw, Stuart Evans, and one of Walter Marshsons, Benjamin Bradshaw, and Tubman Evans, who lives close to the gum, now live; from John Parks' house to Dunn point, was near east by north, from a half to three quarters of a mile, as near as I can guess; John Parks was my mother's own brother, and my mother and father lived on his land to the westward of his house on the Chesapeake bay shore; when I was quite a boy, a dispute arose about where the line of Virginia and Maryland ran; they said that the law of Virginia forbade Maryland from skiffing and gunning in Virginia, and several old people were called together to say where the line was; Richard Evans, who lived at Kedge's straits, and who was called King Richard, because he was best off, I suppose, John Parks, and old man Jacob Bradshaw, who was quite a young man then, met at old uncle John Parks', where young John Tyler now lives, and uncle John Parks said that the state line run between his dwelling-house and his kitchen; I was then, I think, but am not positive, about 18 or 19 years of age; I followed the water, and loved gunning, and had a skiff, and the noise scared the geese and other wild fowl of a night; my uncle got mad about my skiffing, and Jacob Bradshaw had a fowling point called Goose harbor, and uncle King Richard had a fowling point called Fogg's point, where the lighthouse now stands, and that caused them to meet about my skiffing; there was some contention about the skiffing, and they came down upon uncle John Parks, on whose land I lived, about my skiffing, and they all agreed that that was the line, neither one said that that line between the house and kitchen was not the line; I stopped skiffing, and that line was always regarded by me and respected by me as the state line; I don't recollect of hearing about any marriages at the place, but the dwelling-house was in Maryland, and the kitchen in Virginia; and that line was always upheld by us on the island as the line between the two states; I know where Cow ridge used to be; I always called it Battle ridge; old uncle Solomon Evans always owned the place—it lies to the north, and eastward side of the

Little thoroughfare next to the Bain cove and Whit's cove; Terrapin sands is still above, to the northward of that; the reason they gave it the name of Battle ridge, was, that some of the boys went down to dig a cow hole, and they got to disputing and fighting, as I am told; there was no stone or tree, or other mark, on the line said to be at uncle John Parks' house; I never heard of any mark of a state line, except a gum tree where Tubman Evans now lives, and a stone at the mouth of the Little thoroughfare, at the end of Otter island; Otter island is, say 100 strides from the main marsh of Whit's cove, and Bain's cove is above, say half a mile, all on the sound side; I have seen the stone, it was not free-stone, and was not flint-stone, I think, but was like any other stone, washed deep in the ground; I mean to say, that it looked as if buried deep in the ground, and by washing had got rusty and mossy; it was not squared round, but was like a ridged coffin, and looked to be a pretty large stone; the old people always told me it was a state line stone; Horse hammock, where the house stands, was always in Virginia, as long as I remember; I left Smith's island 27 years ago, the 14th day of last November past; I lived north of John Parks' dwelling-house, and always paid taxes in Maryland; I don't remember that John Parks ever paid any taxes, he would go from the one house to the other, so they told me; South point and Sheep hammock, up to Fishing creek, always paid taxes in Virginia; I cannot say where the people who lived where Johnson Evans on Horse hammock now lives, paid taxes; old man Jacky or John Tyler owned it until he run through it; I have always heard of a stone about a mile or three quarters of a mile north of Horse hammock, on east side of Smith's island, the one I have described at Otter island, which was put there to mark the state line, as they told me; the old man Solomon Evans, who used to own the places I am telling you about, is dead; John Parks died before I removed from Smith's island to Sykes' island, where I live now; I think he died about 31 or 32 years ago, to the best of my recollection; I think he told me a short time before he died that he was 82, or in his 83 years of age, he was a very old man. That is about all I know, and these things which I have told are very plain in my mind, as plain as my fingers. I have seen the gum tree at Tubman Evans'; I can't say how long it is since I saw it last, and can't say whether it was cut down or rotted down.

Examined by Mr. Jones.

Otter island is about half a mile or three-quarters of a mile north of Horse hammock. As far as I remember back John Tyler lived at Horse hammock house. He lived there before Peter Evans, during the war of 1812. I can't say how long he lived there; he was a justice of the peace once, and it is likely he was and I think he was while he lived there. No family then lived south of John Parks's dwelling on Hog Neck. There was Shanks's where John Marshall lives, Horse hammock, and one family on Fishing creek. Two families then lived at Shanks's, Billy and Dicky Evans; the old man's son Dicky lived at Fishing creek. A. Hoffman afterwards lived south of John Tyler. I have'nt been there for some years; when I have gone there it has been at the upper end to church. There was first John Parks, and all south of that, there were young Dicky Evans, at Fishing creek; Billy and Dicky Evans at Shanks's; Jacky Tyler, at Horse hammock, and these were all I remember south of John Parks's house at that day. Shanks's families were about 2 miles south of John Parks's. I did not know any ridge called Dogwood, and never heard of Pitscraft. I knew Tommy Tyler, son of David, and the land he lived on was called Drum point, on Tyler's creek. When I lived on Smith's island boating generally was our living, trading in oysters mostly.

Re-examined by Mr. Wise.

When I first began the boating business there was but very little trouble about the places where we oystered. We first bought oysters at Nanticoke and ran them to Washington. The Yankees came in large vessels and gave higher prices and drove us to the western shore of Virginia. We bought and carried but did'nt catch oysters generally. Sykes's island as far as I remember has always been in Virginia, it lies about due east from Ape's hole. Rich hammock is north of John Park's house.

his
JOHN ⋈ SPENCE.
mark.

CRISFIELD, MD., June 5th, 1872.

The joint commissioners having adjourned on yesterday to meet to-day at Smith's island, to visit two stones, one at the mouth of a creek off "The Barn," and another on the west side of the island off the shore of the upper part of "Hog Neck," but the wind being very high and rendering the work impracticable on the island, they assembled to-day at this place.

Present: Hon. I. D. Jones, Wm. J. Aydelotte, Esq., Col. William Watts and Henry A. Wise, Esq., and they proceeded to read numerous patents of Virginia for land at and near the divisional line as therein called for, of which the following were read and noted:

(Here insert my original, Mr. Jones has a copy.)

And they also proceeded to take the depositions of the following witnesses:

John W. Evans was first called, sworn and examined.

I am 34 years of age last April, 1872; born on Smith's island where Benjamin Evans now lives. I was, when a small boy, shown a gum tree which stood on Old Orchard or Cow ridge, a little south of Mister's thoroughfare, where Severn Bradshaw now lives. I have often swung in a swing on that tree, when quite a small boy; and was always told when swinging one way that I was in Virginia, and when the other way I was in Maryland. The tree is now gone, but the stump is there now, just the top of it above ground. I searched for it last Saturday, found it and have brought some of its pieces to this place. I am positive that is the stump of the gum tree which I swung on and which I was told was a line tree between the states of Maryland and Virginia in my early boyhood. A stone was lately found as I am told by Stephen T. Dies, John A. Evans and Caleb Evans, on the west side of the island off the Orchard ridge, near the north end of Hog Neck. I have not been at the stone, but it is now staked off in the Chesapeake bay with a flag on the stake, which I could see from the gum stump I have described, and the flag on that stone as shown to me is about a west course from the stump as near as I can judge without a compass. Another stone has been found, which I have seen at the mouth of a little creek through the marsh called Otter creek I am told, south of "The Barn" point, on the east side of

Smith's island. And the stone off Orchard ridge, and the gum stump, and the stone near Beaver hammock described by other witnesses as near Troy island bar, and the stone in the water off Otter creek, at the Barn point, all except the stump being now staked off with flags, range nearly east and west, as near as I can judge without a compass. The stone off Orchard ridge, I am told, is a very large one, about 6 by 9 feet, and is the same sort of stone, I am told, as that near Beaver hammock. I paid taxes once in Maryland, to Mr. Roach, the sheriff of Somerset county, when I lived at Horse hammock house, and he paid them back to me. There was another John Evans and he meant to collect from him; I paid taxes for my half of the Horse hammock in Virginia; and I now live north of Horse hammock, on a part of Orchard ridge now called Rogue's point, which I bought about two months ago of Henry Dies, and the deed to me will be recorded in Accomack county, Virginia; the Rogue's point where I live purchased from Henry Dies has been always taxed in Maryland, though it is I know recorded in Virginia; the stakes and flags have been put at the stones within the past week since these commissioners have been here. You can from one stone see two of the flags; from either end of the line you can see the next flag but not the third, but from the centre you can see the flag at either end and tell whether the three are on a straight line.

JOHN W. EVANS.

Charles W. Marsh was next called, sworn and examined.

I was 33 years of age last November; I live on Rogues point, Smith's island. The first day I ever went to school, when about 9 or 10 years of age, I swung on the gum tree described by Mr. John W. Evans, and was told it was a line tree of the two states, Maryland and Virginia, and I can corroborate what has been already related by him, Mr. Evans, both as to the —— and stones. I can add only that I believe the original Hog neck extended as high north as the stone found in the Chesapeake by Mr. Dais. The north end of Hog neck has washed at least 100 yards in my day, and is now cut through by two small creeks.

CHARLES W. MARSH.

CONTENTS.

Copy of paper exhibited by Maryland commissioners in the deposition of John Cullen.

Extract from Maryland council proceedings, August 22, 1666, and note on same by Wise.

Extract from records of Somerset county, September 2d, 1682, and notes by Mr. Wise.

Earliest record December A. D. 1665 to 1668.

Memoranda of colonial and commonwealth grants.

Patents issued during the Regal Government of Virginia.

Accomack county index.

Northampton index.

MARYLAND COUNCIL PROCEEDINGS.
Liber H. H. Folio 268.

Commission to Stephen Horsey, William Stephens, William Thorn, James Jones, John Winder, Sidney Boston, George Johnston and John Whillington, to lay out a county, bounded on the south by a line drawn from Watkins' point, being the north point of Yt bay into weg the river Wighco (formerly called Wighcocomaco and afterwards Pocomoke, and now Wicocomaco, againg dotg) to the ocean on the east, Nanticke river on the north, and by the sound of Chesp. bay on the west," to be erected into a county by the name Summerset, in honor of our dear sister, Lady Mary Summerset.

22 August, 1666.*

Note by General Wise.

Mr. Jones supposes Summerset was organized out of Dorchester. See same book. Worcester was carved out of Summerset by act of assembly 1742.

EXTRACT FROM RECORDS OF SUMMERSET Co., E. S. Va.
Liber M. A. Folio 730.

Deed:—John Evans of Accomack Co. in the Colony of Virginia from Henry Smith and Anne his wife of Summerset County in the Province of Maryland:—renter grant of Lord Baltimore of 2d Septm 1682. Tract of land called Pitcraft—bounded &c. as per certificate 7th June 1679.— parcel of land taken out of the said 1,000 acres—200 acres, beginning at a marked pine at North end of westernmost side of a Ridge of land called Dogwood Ridge, and running Southerly the length of 200 acres, with an East course for containing 200 acres.

Note by Governor Wise.

Several other deeds from same records, which will probably identify divisional line on Smiths' island.

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* This was before the line was run.

EARLIEST RECORD OF SUMMERSET COUNTY,
11TH DAY OF DECEMBER, A. D., 1665 TO 1668.

Anne Toft *of Accomack* recites on Manoaken, granted in the year 1665, in the year 1667, 19th day of June, granted land of his and Randall Revell's land—the Double purchase or Araroso to Hannah & Cathern Revels.

MEMORANDA OF COLONIAL AND COMMONWEALTH GRANTS.

Date.	
1662—March 12. 1663—October 2.	Robert Pitt—books 5; 4,000 acres.
1664—June and Sept.	Col. E. Scarborough and John Wallas, 2,400.
1670—October 6.	William Brittingham, east of Pocomoke, 450.
1678—April 4.	Thomas Milbourne, Fox island N. of Watts' island.
1679—April 30.	Col. S. Littleton, on the Forehead neck, N. side of King's creek at Pocomoke river.
1680—April 20.	Maj. Gen'l John Custis, Cobham's island, in Pocomoke river.
1680—October 2.	John Tankard, 2,000 acres, between Gingoteag, Accomson and Pocomoke.
1699—October 26.	John Carter, Foxes' North island.
1700—November 27.	William Brittingham, 996, beginning at Kings' alias Pitt's creek, ☞ *on the divisional line between Virginia and Maryland.*
1703—October 23.	Francis Mackensne, Arcadia Melboune, Dan'l St. Thomas Jenifer, and John West, 3,804 on Six island. ☞ *B. S. H., near Nanticoke sound.*
1727—June 16.	John Marshal. To a marked oak, being one of the ☞ *division lines between Virginia and Maryland.*

1787—May 4. Sacker Nelson, northerly and easterly on Pocomoke sound, S. on the thoroughfare, W. on the Tangier sound.

1791—October 34. Richard Evans, on Queen's ridge, beginning at a marsh near Tangier sound.

Where is Old Barn island, Piney island, Rich hammock?

1672—October 7. John Robins, bounded northward ☞ *by the divisional line between Virginia and Maryland.*

1680—October 2. Captain Daniel Jenifer, 2,500 acres, between Crooked creek and Pocomoke river, on the north Messongo creek—Gingoteague alias Jengoteage at Chincoteague.

1664—April. Col. E. Scarborough, 4,150
June. Col. William Waters, 1,350
August. John Wallop, alias Wardlon, 3,050
——8,550 acres.

1682—May 8.
1686—November 3. } Lient. Col. Daniel Jenifer 3,890 on Assateague; William Kendall 2,725 acres, N. E. end of Chincoteague, including a piney marsh called Piney island.

1694—April 20. Major John Robbins, 2,725, S. W. end of Chincoteague, including a little island of marsh.

1695—April 21. Captain John Custis, N. end Chincoteague.

1700—April 24. Hill Drummond, 183 acres on Pope's island.

1672—April 24. William Whittington, 5,800 acres, all Chincoteague island.

1691—April 28. Major John Robins, 1,500 acres, being an island called Chincoteague island, and parted from the main neck of Chincoteague, Great Mattapony or Swanseacute and Chincoteague creek, and neck on the main.

1656—November 9. Daniel Selby, 600 acres, and one to Bishop, on Bockatenock creek, on Selby's bay.

Edward Smith, 700, and John Peck, 400, both N. of Daniel Selby's.

167½—February 12.	Daniel Jenifer and Anne (Taft) his wife, 16,300, bounded east by Stokely's branch, and shows where Chincoteague creek on the main was.
1674—April 9.	John Wallop, 450 on the Swanseacut or Mattapony.
	Samuel Taylor, 700, on Freshwater branch on Great Mattapony, by some called Swanseacutts.
1675—April.	Colonel S. Littleton, 1,000.
1672—March 26.	Miles Gray, 400 acres, bounded northward on a southern freshwater branch of Great Mattapony, called Swanseacutes.
167½—February 12.	Daniel Jenifer, 5,000 acres, called Chingoteague, 3,000 of it granted to Colonel E. Scarbrough 20th June, 1664, and 2,000 acres of same lying N. W. of the 3,000 above.
1672—October 3.	Captain John West, 1,000 acres on Chincoteague creek.
1672—October 9.	John Wallop, 650 acres on Gingoteague, alias Chingoteague.
1672—October 7.	Thomas Nickson, at Chincoteague creek, adjoining John Wallop.
	See back John Robins, bounded northward by the divisional line between Virginia and Maryland.
1673—May 27.	Thomas Mosier, 1,100 acres, in the upper part of the county, in the woods near Gingotake.

Patents issued during the Regal Government of Virginia—Accomack County.

PAGE.	NAME OF.	DATE OF PAT.	ACRES.	LOCALITY.
		Book 5.		
78	Col. E. Scarbrough, - -	June 22, 1664,	3,000	N. of Chincoteague creek.
78	" " - -	Sep. 10, 1664,	2,000	S. by Crooked creek, near Pocomoke.
81	John Wallop, - -	June 10, 1664,	400	At Pocomoke.
☞	Rob't Pitt, - -	Oct. 2, 1663,	3,000	N. by Pocomoke, and W. by C. bay.
☞126	Rob't Pitt, - -	Mar. 12, 1662,	1,000	At Pocomoke.
421	Col. W. Waters, - -	June 12, 1664,	1,850	S. side Chincoteague creek.
602	Rob't Holstons, - -	Ap'l 5th, 1666,	500	By Poco. N. W. and by Holston's creek.
☞604	John Williams, - -	" " "	500	West S. W. by river, Holston's N. W. by Pocomoke.
604	Thos. Davis, - -	" " "	400	On Pocomoke.
605	James Henderson, - -	" " "	400	Nex. Tho. Davis on Pocomoke.
610	John Davis, - -	" " "	700	North by Pocomoke, W. by Davis branch.
☞614	Henry Smith, - -	" " "	1,700	On Pocomoke.
		Book 6.		
☞ 20	Radcliffe, - - -	Nov. 9, 1666,	1,200	Pocomoke on Crooked creek.
☞ 32	Dan'l Selbey, - -	" " "	600	Mattapony.
☞ 32	Henry Bishop, - -	" " "	2,300	Bockatenock creek and bay on sea side.
☞ 33	Edw'd and John Smith, -	" " "	500	Mattapony.
☞ 34	John Pike, - -	" " "	400	N. of D. Selby at Mattapony.
☞ 81	Henry Smith, - -	Oct. 9, 1667,	1,000	Smith's island in the bay.
265	Ann Toft, - -	Oct. 30, 1669,	2,000	Gargaphia creek.
267	Dan'l Forcraft, - -	Oct. 30, 1669,	600	S. side Pocomoke.
☞				

316	Lt. Col. John Wallop,	April 20, 1670,	3,050	S. side Chincoteague creek.
388	Dan'l Jenifer and Ann Toft, his wife,	Feb'y 12, 1672, " " "	11,300 5,000	Seaboard Stokely's Branch. Neck between Chincoteague and Swanseagute creek on divisional line.
405	D. Browne,	Oct. 16, 1672,	3,700	Jolls neck, Pocomoke.
458	John Taylor,	" 27, 1673,	34	Little Watts' island.
514	J. Wallop, alias Waddelow,	April 9, 1674,	450	Great Mattapony als. Swanseacute on the divisional line.
514	Sam'l Taylor,	" " "	700	Chincoteague creek.
542	Maj. Ed. Bowman and Cap. S. Littleton,	Oct. 5, 1674,	2,264	N. side of Swansecut als., &c., Great Mattapony and by divisional line.
607	Edw'd Robins,	Mar. 27, 1675-6,	680	At Chincoteague on the divisional line between Va. and Md.
615	This grant shows Kehotank is the alias of Occocomsom,	Beginning at now Wallops.		
637	Tho. Wellbourne,	April 4, 1678,	83	Fox island north of Watts' island.
637	Col. S. Littleton,	" " "	1,000	At Chincoteague.
639 676	Chs. Scarbrough and John West,	" " "	400	Western island of Chesapeake bay.
677	John Washburn,	April 30, 1679,	600	Pocomoke, M. Leston's land.
	Col. S. Littleton,	" " "	150	On the Forehead neck, N. of King's creek at Pocomoke; divisional line.

Book 7.

14	John West,	Nov. 25, 1679,	2,500	Pocomoke, N. Wessongo, George's island.
26	Maj. Gen'l John Curtis,	April 20, 1680,	100	Cobham's island in Pocomoke.
66	John Tankard,	Oct. 2, 1680,	2,000	Bet. Pocomoke and Chincoteague.
157	Wm. Taylor,	April 20, 1682,	200	S. E. side of the Narrows.
185	Col. John Custis,	Sep. 22, 1682,	4,600	Jolles neck, Eastern part of 2,000 acres pat. by E. Scarbrough.
269	Col. D. Jenifer and Wm. Stevens,	April 16, 1683,	200	S. end of Assateague island on the divisional line.
593	Adam,	April 20, 1686,	600	At Pocomoke.
570	Capt. W. Custis,	April 17, 1686,	800	On Feaks or Fox island.

PAGE.	NAME OF.	DATE OF PAT.	ACRES.	LOCALITY.
563	Dan'l Jenifer, - -	April 20, 1687,	3,500	Assateague, on the divisional line.
		Book 8.		
162	John Morris, - -	April 28, 1691,	300	Bet. Chingo. and Assateague.
285	Wm. Kendall, - -	April 29, 1692,	2,729	N. E. end of Chincoteague, including Piney island.
286	John Wollop (Wadlow), -	" " "	2,500	Kecotank island.
243	John Robins, - -	" " "	2,765	S. W. end of Chincoteague, and island of marsh.
418	Capt. John Custis, - -	April 21, 1695,	250	Northern end of Chincoteague island.
		Book 9.		
230	John Carter, - -	Oct. 26, 1699,	130	Fox North island.
244	Hill Drummond, - -	April 24, 1700,	96	Popes island, on divisional line.
285	Wm. Buttingham, - -	Nov. 7, 1700,	96	Beginning at Pitts alias Kings creek, on the divisional line.
400	Nath'l Littleton, - -	Oct. 24, 1701,	150	On Forehead neck, N. of Kings creek at Pocomoke.
465	McKenney and Jenkins, -	April 25, 1702,	150	S. end of Watts island.
	Same, - -	" " "	24	Gabriels, alias Watts Little, alias Goat island.
545	Frances McKennie, Arcadia Welbourne, Dan'l of St. Thos. Jenifer, and John West,	Oct. 23, 1703,	3,804	On Six island, beginning near Nanticoke sound.
		Book 10.		
72	Eliza Scarbrough & Arthur West,	May 2, 1713,	900	All Tangier island.
227	Thos. Gascoine, - -	July 15, 1715,	1,093	Head of Chincoteague creek.
		Book 13.		
111	John Marshall, - -	June 16, 1727,	170	B. S. and E. to a marked oak being one of the division trees between Va. and Md.

PAGE.	NAME OF.	DATE OF PAT.	ACRES.	LOCALITY.
		Book 11.		
85	Sacker Nelson, - -	May 4, 1787,	476	Northerly and Easterly on Pocomoke sound, Southerly on Thoroughfare, Westerly on Tangier sound.
144	Richard Evans, - -	Octo. 31, 1791,	47	Part called Queen's ridge, B. S. at a point of marsh near Tangier sound.
656 657	W. J. Aydelotte, Benj. Blades, et als., -	30 July, 1841,	880	On Assateague island.

PAGE.	NAME OF.	DATE OF PAT.	ACRES.	LOCALITY.
		Book 6.		
397	☞ Miles Gray, - -	Mar. 26, 1672,	400	Branch of G't Mattapony, alias Swansecut.
400	Dan'l Jenifer, - -	Feb'y 12, 167½,	5,000	Part called Chincoteague, granted to E. Scarbrough in 1664. Residue lying on the N. W. side of the 3,000 acres.
				☞ Note.—St. George's island is in Pocomoke river. See page 402; grant to John Parker, Mar. 29th. 1672. Two hammocks on the marsh between Pocomoke and Messongo—the two marsh hammocks to the Western end of St. George's island.
421	☞ Wm. Whittington, - -	Oct. 2, 1672,	5,800	All Chincoteague island.
423	Capt. John West, - -	Oct. 3, 1672,	1,000	At Chincoteague, S. by Capt. Rich'd Hill, and N. E. by Capt. Dan'l Jenifer.
430	☞ John Wallop, - -	Oct. 9, 1672,	1,550	Prones Kekotank, alias Accocompson island, next Southern island to Chincoteague, now Wallop's island.
433	Thos. Nickerson, - -	" " "	400	At Chincoteague, adjoining John Wallop.
435	John Robins, - -	Oct. 7, 1672,	500	At the seaside, S. W. by the land of Southey Littleton, Northward by the divisional line bet. Virginia and Maryland.
483	☞ Capt. D. Jenifer and Ann his wife, formerly Ann Toft, - -	-	2,350	On Guilford, then called Muddy creek.
		Book 7.		
66	Capt. D. Jenifer, - -	Oct. 2, 1680,	2,500	Between Crooked creek and the Pocomoke, on the N. Messongo.
168	Maj. John Robins, - -	April 28, 1681,	1,500	Island called Jingoteague, parted by sunken marsh and creeks from the main neck of Chingoteague.
	☞			

The following paper was copied by Hon. I. D. Jones, one of the commissioners of Maryland, and exhibited in the deposition of John Cullen:

Mr. Jones's caption is as follows:

"Commission from the of Summerset to John S. Handy, John Cullen and Henry Thomas, of Summerset Co., in the state of Maryland, to lay off so much of Smith's island as lies within the body of Summerset county aforesaid, into a separate and additional election district," before 1st April, [Aug'st] 1836. Commission dated 8th April, 1835. Return dated 16th June, 1835. "In pursuance of the said order, we have viewed, laid out, and return as follows for said election district, to wit: Beginning on the east side of said island at a place well known by the name of Dunn Point; thence westerly cross to the bay, to a Hammock called Sassafras, lying on the bay shore; thence by and with the bay up to Kedge's straits; thence by and with the sound to Dunn Point," to the beginning. "And that we at the same time have elected the Methodist meeting house as the most suitable and convenient place for holding the elections in said district.

"In witness, &c., June 16th, 1835.

JOHN S. HANDY. [Seal.]
JOHN CULLEN. [Seal.]
HENRY THOMAS. [Seal.]

Liber G. H. No. 8, folio 35 and 36.

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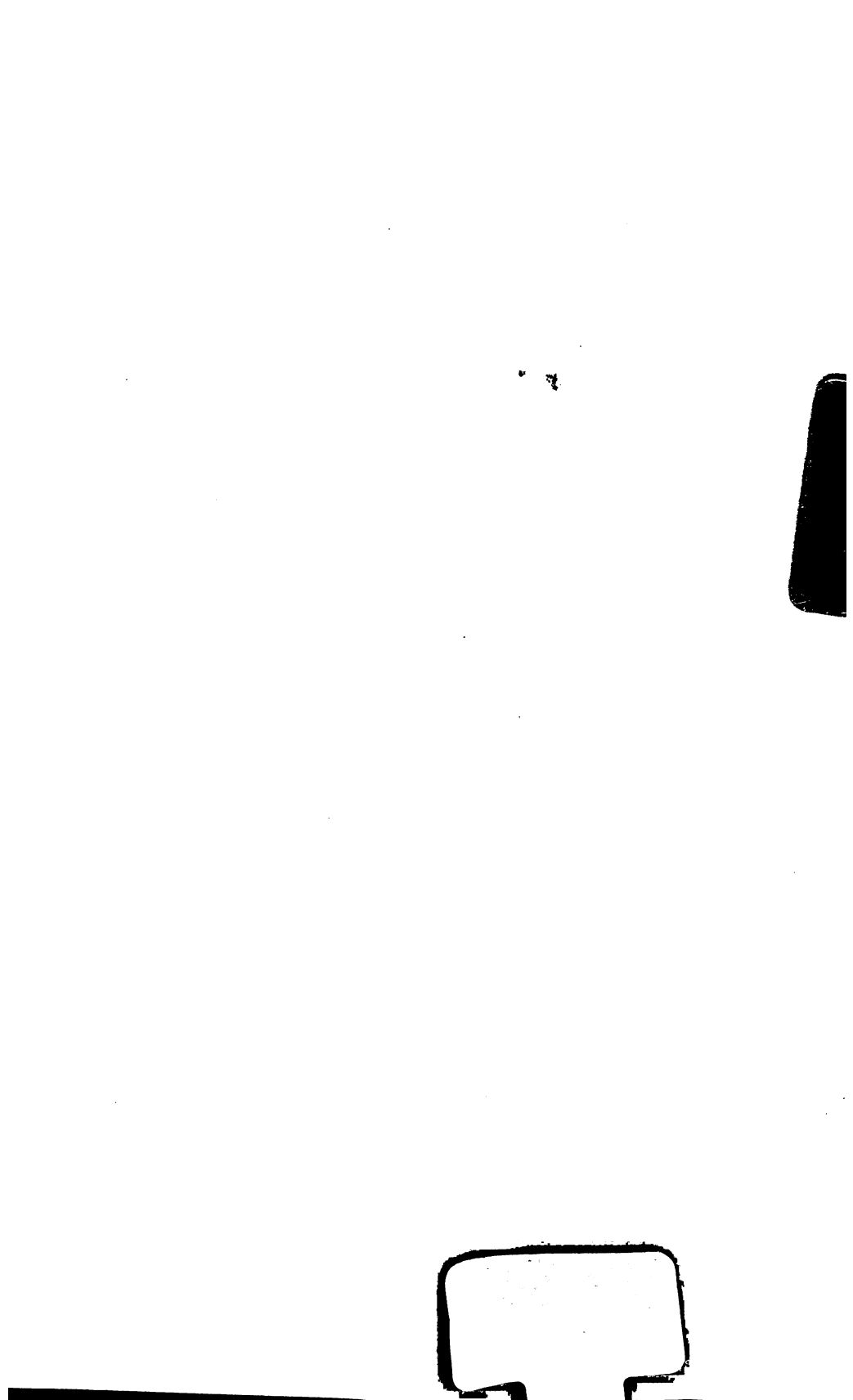
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